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ABSTRACT

Hearings on the Department of Education's final regulation governing the National Direct Student Loan (NDSL) Program are presented. The final regulation makes three changes: calculation of the federal capital contribution, which is the amount of new federal dollars allocated to institutions each year; the eligibility of institutions to receive awards based on default rates; and the method of appealing an award determination made by the Department. The regulation would end new NDSL funds for the 1982-1983 academic year at schools with NDSL default rates of more than 25 percent and could reduce funds for schools with NDSL default rates from 10 to 25 percent. Schools with default rates of less than 10 percent could get a larger share of federal funds. Concern is expressed concerning: the effect on schools of the late publication of the final rule; the disproportionate impact of the final regulation on black colleges and universities, which serve low-income populations; and the potential that the regulation reduces the incentive for institutions to make substantial progress in reducing default rates. Appended materials include an NDSL application form, an article from the "Higher Education Daily," and letters from colleges and concerned groups concerning the regulation. (SW)

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OVERSIGHT ON NATIONAL DIRECT STUDENT LOAN PROGRAM REGULATIONS

ED235767

HEARING

BEFORE THE

SUBCOMMITTEE ON
POSTSECONDARY EDUCATION

OF THE

COMMITTEE ON EDUCATION AND LABOR
HOUSE OF REPRESENTATIVES

NINETY-SEVENTH CONGRESS

SECOND SESSION

HEARING HELD IN WASHINGTON, D.C., ON AUGUST 18, 1982

Printed for the use of the Committee on Education and Labor

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OVERSIGHT ON NATIONAL DIRECT STUDENT LOAN PROGRAM REGULATIONS

WEDNESDAY, AUGUST 18, 1982

House of Representatives,
Subcommittee on Postsecondary Education,
Committee on Education and Labor,
Washington, D.C.

The subcommittee met, pursuant to call, at 9:47 a.m., in room 2257, Rayburn House Office Building, Hon. Paul Simon (chairman of the subcommittee) presiding.

Members present: Representatives Simon, Ford, Peyser, Weiss, Erlenborn, and Erdahl.

Staff present: William A. Blakey, counsel; Maryln L. McAdam, legislative assistant. Betsy Brand, legal associate; John Dean, legal associate.

Mr. Simon. The Subcommittee on Postsecondary Education will come to order.

I will enter a formal statement in the record.

I am concerned about the regulation that we have before us as it impacts the NDSL program. I am concerned for several reasons.

One is again we have a time problem. The publication of the final rule comes 204 days after the proposed rule was first published.

We have, second—and I think most important from my point of view—a problem in that we are judging everyone by the same standard. We are assuming that a community college in East St. Louis with all kinds of problems has the same opportunity to collect that Harvard or Yale has to collect.

What we do when we make no distinction is that we in fact discourage the poor school. I don't mean poor academically or otherwise, but the school that serves the low-income population. That is frankly the major concern that I have.

The regulation, finally, provides no incentive to schools. It is simply an arbitrary, across-the-board cutoff.

I would like to make clear also that I favor pushing loan collections. I was a sponsor of one of the bills that had the IRS cooperate on student collections. I don't think we should be absolving schools of their responsibility. I am not suggesting that no school should be cut off, but I am concerned about where we are going and what we are doing. That is the reason for the hearing today.

[Opening statement of Hon. Paul Simon follows:]

Opening Statement of Hon. Paul Simon, a Representative in Congress From the State of Illinois and Chairman, Subcommittee on Postsecondary Education

The Subcommittee on Postsecondary Education holds a hearing today on the Department of Education's final regulation governing campus-based student aid programs. We are specifically concerned with the impact of the August 2, 1982 regulations on colleges and universities that participate in the National Direct Student Loan (NDSL) program. The August 2 regulation is identical to the proposed rule published by the Department on January 7, 1982. The final regulation makes three specific changes: Calculation of the Federal Capital Contribution (FCC) which is the amount of new Federal dollars allocated to institutions each year; the eligibility of institutions to receive awards based on default rates; and the method of appealing an award determination by the Department of Education.

I am concerned about this regulation for several reasons. First, the late publication of the final rule (204 days after the proposed rule was first published in the *Federal Register)* has placed participating institutions at a serious disadvantage. Those schools that may lose their Federal Capital Contribution have received this notice less than 30 days before school opens. Many other institutions, which remain eligible for the NDSL Federal Capital Contribution, must await the expiration of the 45 day statutory review period before receiving any new funds.

Second, the final regulation has a disproportionate impact on black colleges and universities, community colleges and urban universities which service significantly low-income student populations. While it is entirely fair to hold institutions responsible for their failure to effectively monitor and collect student loans, present and future generations of students suffer when a school is denied its Federal Capital Contribution.

Finally, I believe the Department's final regulation reduces the incentive for institutions to make substantial progress in reducing their default rates. An incentive system in the existing regulation is discarded in favor of an absolute and automatic cutoff at 25 percent. Many institutions which have made substantial progress—reducing their default rate by as much as 50 percent—will be penalized under the August 2 regulation. Additionally, schools with very low default rates are also being penalized under this regulation.

I am pleased to welcome to the Subcommittee today my friend and colleague Walter Fauntroy who, along with many other Members of the House, asked the Subcommittee to look into this matter. A group of college presidents and administrators will also be presenting information on the impact of these regulations on their institutions.

[From the New York Times, Aug. 17, 1982]

Finding Federal Deadbeats

The Reagan Administration does well to track down borrowers who default on Government loans. But picking on the small National Student Direct Loan Program is a dubious way to begin.

The Department of Education's decision to terminate eligibility in the program for schools with default rates of 25 percent will mostly hit black colleges and vocational schools serving poor students, while making only a small dent in the problem.

Defaulted Government loans now total $9 billion, $3.3 billion from student loans. The rest is owed to 17 Government agencies including the Veterans Administration, the Federal Housing Administration and the Small Business Administration.

Senator Charles Percy proposes an approach that makes much more sense than concentrating on small colleges. It would allow the Government to collect defaulted debts from the paychecks of Federal employees. It would also let Washington charge interest and penalties for unpaid debts, use private bill collectors and report bad debt to credit bureaus.

Even more might be accomplished by using the Federal tax system to recoup loans in default, a procedure used successfully at the state level. Oregon, for example, has been deducting loan payments from tax refunds since 1971, finding it cost-effective to collect even small amounts that might otherwise be written off.

Tax officials object that such use of the tax system would force taxpayers to hide more of their income, overload the I.R.S. with complaints and destroy the "voluntary character" of the income tax. But that is a fiction. Oregon has not found significant differences in income reporting, and complaints have been minimal.

Eventually, borrowers might even be able to use the tax system to pay off Government loans with payroll deductions. That would make it possible to let students pay according to ability, stretching out payments when income is low, speeding them up as it rises. The case for such an approach, especially for educational loan programs, seems compelling.

THE SECRETARY
WASHINGTON, D.C. 20202

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The Honorable Paul Simon
Chairman
Subcommittee on Postsecondary Education
Committee on Education and Labor
House of Representatives
Washington, D. C. 20515

Dear Mr. Simon:

Thank you for your letter in which you delineated your concerns regarding the Department of Education's proposed regulations governing the distribution of Federal capital for the National Direct Student Loan (NDSL) program and the disbursement of final awards.

The Department will not make final awards of new Federal capital to institutions until the final regulations are approved by Congress. We informed institutions in a June 1982 "Dear Colleague" letter that 1982-83 authorization letters containing the final awards will be sent to institutions after the regulations governing these awards are issued. The letter gave institutions the authority, after July 1 and until receipt of the final award authorization, to make loans from funds already on deposit in the NDSL fund, if a level of expenditure was contained in the tentative award for 1982-83.

It is the Department's intent to publish a final regulation with the same criteria for institutional allocation for Federal capital as those in the January 7, 1982 Notice of Proposed Rulemaking. The Department will follow the statutory requirements of the General Education Provisions Act which provides the Congress with 45 days for review of the regulation.

I would like to share the following statistics with you concerning the effects of the default penalty on applicant institutions:

- o 2,949 institutions applied for Federal capital
- o 1,622 institutions have a June 30, 1981 default rate of 0-10 percent
- o 810 institutions have a June 30, 1981 default rate of 10-25 percent
- o 517 institutions have a June 30, 1981 default rate of 25 percent
- o Institutions with default rates over 25 percent which would not be awarded new Federal capital for 1982-83 are as follows:
  - 74 are public 2 year
  - 30 are public 4 year
  - 16 are private 2 year
  - 51 are private 4 year
  - 340 are proprietary
  - 6 are vocational-technical

These institutions would not be awarded new Federal capital for 1982-83. However, I would like to emphasize that any institution can become eligible for new capital contributions by simply assigning defaulted student loans to the Department for collection.

Institutions were notified of the proposed default penalty and the way in which they could appeal their default rate through two pieces of correspondence, (1) The August-September 1981 issue of The Bulletin and (2) An August 1981 "Dear Colleague" letter signed by James W. Moore and sent to all institutions that participate in the NDSL program. In addition, during the training sessions conducted by the Department of Education's regional office staff in September/October, a draft of the appeal guidelines was shared with the workshop attendees.

The appeal guidelines provided that if an institution received no new collection capital or reduced Federal capital it could appeal for funds. An institution could appeal if it could show that by December 31, 1981 its default rate decreased to 25 percent or less for the following reasons:

- by simply assigning defaulted loans to the Department of Education for collection.
- by placing formerly defaulted loans in repayment status or deferment status.
- by placing defaulted accounts in litigation and successfully serving the debtor with a summons.
- by not considering in the calculation of default rate those loans that have been in default 9 years or more.

An institution new to the NDSL program could also appeal if it showed that its default rate did not reflect its collection efforts as of December 31, 1981.

In addition, for your information, since we began receiving defaulted loans for collection, the Department has accepted for assignment 300,000 loans. These loans are not included in calculating an institution's default rate.

As the foregoing shows, we have provided institutions with several means for reducing the default rate to an acceptable level. We believe it is reasonable to allocate the limited new Federal capital to those institutions with proven success in managing both the making and collection of loans.

We also believe that in this era of fiscal stringency institutions must redouble their efforts to collect on past due and defaulted loans in order to make the maximum amount of funds available to needy students who may require loans to continue their education.

I hope that this addresses your concerns. Please let me know if I can be of further assistance.

Sincerely,

Ted

T. H. Bell

sure

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF THE ASSISTANT SECRETARY FOR POSTSECONDARY EDUCATION

JUN 1982

STUDENT
FINANCIAL ASSISTANCE
PROGRAMS

Dear Colleague:

The purpose of this letter is to report to the financial aid community on the status of the 1982-83 Campus Based and Pell Grant programs, since the new award year begins shortly, on July 1, 1982.

Campus Based Programs

1) The 1982-83 authorization letters containing awards for these three programs will be sent to you during the second week of July. The appropriate regulations governing these awards will be issued prior to the time the authorization letters are released.

2) After July 1 and until receipt of the final award authorizations for the NDSL, SEOG, and CWS programs institutions are authorized to:

   (a) make loans from funds on deposit in the NDSL fund, if a level of expenditures was contained in the tentative award for 1982-83;

   (b) continue employment under the College Work-Study program using funds carried forward from the 1981-82 allocation (not to exceed 10% of the total 81-82 allocation) or solely from institutional funds. In the latter case the institution may reimburse itself from the forthcoming 1982-83 Federal allocation for up to 80% of payroll costs earlier incurred and paid entirely from institutional funds.

3) Institutions may expect reimbursement for the 1981 teacher cancellation amounts in the NDSL fund before the end of this month.

Pell Grant Program

1) As of June 18, 1982 all of the final decisions concerning the validation project in the Pell Grant program were made. A revised validation handbook is now being printed and will be distributed to you within the next two weeks.

2) The Pell Grant payment schedule for 1982-83 has already been distributed through the courtesy of NASFAA, AICS, NATS and other groups here in town. This schedule which runs from a maximum award of $1,674.00 to a minimum of $115.00 is identical to the one currently being printed for release at the end of July. You may use this early version of the schedule which you now have to calculate awards and make payments beginning on July 1.

3) Specific information concerning the payment to institutions of the $5.00 per Pell Grant recipient administrative cost allowance for 1982-83 will be sent to you within the next few weeks.

Finally, I should like to point out that some number of institutions have recently received or will receive in the next few days letters either from the regional offices or from the Division of Certification and Program Review advising them that the institution will not be receiving a 1982-83 authorization letter for the Campus Based programs during the general mailing in July. These letters speak to certain deficiencies which must be cured by the institution concerned before program funds may be released. The general comment with respect to the NDSL and Work-Study programs noted in paragraph 2 above concerning the Campus Based programs does not apply to institutions whose 1982-83 awards have been withheld.

I trust the foregoing will be of assistance to you in the development of your 1982-83 student aid programs.

Yours sincerely,

James W. Moore
Director of Student Financial
Assistance Programs

federal register

Monday
August 2, 1982

Part IV

Department of Education

National Direct Student Loan Program
College Work-Study Program, and
Supplemental Educational Opportunity
Grant Program

DEPARTMENT OF EDUCATION

34 CFR Parts 674, 675, and 676

National Direct Student Loan Program, College Work-Study Program, and Supplemental Educational Opportunity Grant Program

AGENCY: Education Department.

ACTION: Final regulations.

SUMMARY: The Secretary issues regulations for the National Direct Student Loan (NDSL), College Work-Study (CWS), and Supplemental Educational Opportunity Grant (SEOG) Programs, commonly known as the campus-based programs. These regulations revise the current funding procedures as a result of program experience and public comment. The most important change is in the National Direct Student Loan Program. The changed procedure involves the allocation of Federal capital contributions and is intended to reward institutions with low default rates and penalize institutions with high default rates.

EFFECTIVE DATE: Unless the Congress takes certain adjournments, these regulations will take effect 45 days after publication in the Federal Register. If you want to know the effective date of these regulations, call or write the Department of Education contact person. At a later date the Secretary will publish a notice in the Federal Register stating the effective date of these regulations.

FOR FURTHER INFORMATION CONTACT: Margaret Henry or John McGonigal, Office of Student Financial Assistance, 400 Maryland Avenue, SW., (Room 4018, ROB-3), Washington, D.C. 20202. Telephone (202) 245-9720.

SUPPLEMENTARY INFORMATION:

Background

The 1982-83 award year will be the fourth year that funds for the campus-based programs are to be distributed according to a formula which considers both past expenditures at each institution and the need for additional funds as measured against that of other institutions in each State and in the nation. This funding formula was adopted in 1978 at the recommendation of a panel of financial aid experts serving as consultants to the then Office of Education. Under that formula, institutions were guaranteed a portion of the amounts spent in a previous, or base, year. The formula would gradually reduce that conditionally guaranteed portion while at the same time distributing the remaining funds on the basis of relative need (fair share). These regulations describe how allocations to institutions determined under this formula are reduced if appropriated funds do not suffice to meet conditionally-guaranteed amounts, and also reflect those revisions to the funding process included in the NPRM to these regulations, 47 FR 908, January 7, 1982. A summary of the comments and responses to the NPRM is included as Appendix A to these regulations.

Summary of Major Changes

The NPRM published on January 7, 1982 proposed six changes for the campus-based programs. All but one of those changes concerned either the funding or appeal process. A section was added to the regulations for the three programs regarding the verification of student aid applicant information. However, the Secretary has decided against publishing at this time the sections relating to verification. Instead, he intends to study the issue more closely before issuing regulations on this subject. The following is a discussion of each of the other proposals adopted and promulgated in this final regulation.

1. *State apportionment—Section 3 of each part.* a. These regulations implement funding procedures based on the Higher Education Act of 1965, as amended. The Act apportions among the States funds appropriated for these programs using formulas based on various populations in each State. However, for the NDSL and SEOG Programs, apportionments of funds among the States for the 1982-83 award year will be made, not according to the formulas in the Act, but according to those contained in Pub. L. 97-161. The latter provides that in each of these two programs, funds are apportioned among the States so that each State receives the same percentage of the appropriations for award year 1982-83 as it received of the appropriations for award year 1981-82. These provisions supersede the apportionment formulas in the Higher Education Act for award year 1982-83.

b. The statutory State apportionment formulas for each program, dividing 90 percent of the appropriated funds on the basis of population, yield amounts satisfying different percentages of conditional guarantees in different States. The Secretary has therefore amended the regulations to apportion those funds over which he has discretion, to States receiving apportionments (based on the population portion of the statutory formulas) insufficient to meet the conditional guarantees of all their institutions. These discretionary funds will be apportioned to provide each State with a uniform minimum percentage of the amount needed for the conditional guarantees of all its institutions. However, for NDSL and SEOG in fiscal year 1982 the formulas adopted in the continuing resolution for fiscal year 1982 supersede this procedure.

2. *Allocation procedures—Section 4 of each part.* If funds apportioned to a State do not suffice to meet the conditional guarantees of all institutions in that State, as discussed in the following paragraphs, the Secretary will distribute those funds to each institution in that State so that each receives the same proportion of its conditional guarantee.

3. *Reallocation procedures—Section 4 of each part.* The Secretary is modifying the reallocation procedures for each of the campus-based programs. These procedures are found in section 4 of the regulations for each of these programs. In place of the natural disaster and national fair share provisions for the distribution of reallocated funds, these regulations adopt more general language allowing the Secretary "to reallocate funds in a manner that best carries out the purposes of the programs." This change gives the Secretary more flexibility to reallocate funds to institutions, but does not in any way preclude using reallocated funds for natural disaster or national fair share purposes if the Secretary believes that either or both would best serve the interests of the program for any given year. Because changes in the CWS and SEOG statutes give institutions flexibility in the use of campus-based funds, the Secretary anticipates that a smaller amount of unexpended funds will be available for reallocation. Note that the formulas governing appropriations for fiscal year 1982, which for NDSL and SEOG apportion funds among the States on the basis of their fiscal year 1981 apportionment, modify the effect of the reallocation procedures described in the regulations. They further reduce the funds which may be reallocated to institutions outside the State to which the funds were first apportioned.

4. *Conditional guarantee—Section 6 of each part.* a. An institution which participated in the NDSL Program in the 1980-81 award year will receive a conditional guarantee lending level equal to the greater of $5,000 or 90 percent of its 1980-81 level of expenditure. (Level of expenditure is the amount of loans made in an award year plus the amount the institution claimed

for administrative expenses in that year.)

b. An institution that did not participate in the NDSL program in the 1980-81 award year and is not a first or second time participant will receive a conditional guarantee equal to the greater of 90 percent of its level of expenditure for the first year it participated in the NDSL program after the 1980-81 award year or $5,000.

c. If sufficient funds are available, the CWS statute as amended by the Education Amendments of 1980, Pub. L. 96-374 guarantees an institution that participated in the CWS Program in award year 1979-80 an allocation equal to at least its 1979-80 award year Federal share of expenditures unless it suffers a substantial decline in enrollment.

The Secretary defines a "substantial decline in enrollment" as a decline of at least 30 percent between an institution's award year 1979-80 total enrollment and its base year total enrollment. (Base year means the 12-month period ending on the June 30 preceding the closing date for filing an application.) If an institution has suffered a substantial decline in total enrollment, its funding guarantee (conditional guarantee) will be reduced based on the percentage of the decline in the number of eligible aid applicants between the 1979-80 award year and the base year. For example, if an institution's total enrollment declined by 40 percent and its eligible aid applicants declined by 5 percent, its conditional guarantee would equal the greater of $5,000 or 95 percent of its 1979-80 award year Federal expenditures.

d. An institution that did not participate in the 1979-80 award year and is not a first or second time participant, will receive a conditional guarantee under both CWS and SEOG programs equal to the greater of 90 percent of its Federal expenditures for the first year it participated in the programs after the 1979-80 award year or $5,000.

e. The Secretary is including in the NDSL, CWS and SEOG programs a $5,000 component of the conditional guarantee computation for all institutions in order to alleviate past funding inequities of institutions participating in the campus-based programs. This change provides each institution that so requests at least $5,000 as its conditional guarantee under each of these programs.

5. *Need of institutions for SEOG funds—34 CFR 676.6.* The SEOG program statute provided a formula for determining an institution's need for SEOG funds for each award year. An institution's SEOG need equals 75 percent of the cost of attendance at the institution minus the sum of (1) the expected family contribution of these students, (2) the Pell Grants received by these students, (3) the State Student Incentive Grants (SSIG) these students received and (4) 25 percent of the institutional grants they received.

The base year for reporting SSIG data will be updated annually as is the base year for Pell Grants. (For the 1982-83 award year the base year for reporting SSIG data and Pell Grant data is the 1980-81 award year.) However, the base year for reporting institutional aid will remain the 1977-78 award year.

6. *Calculation of Federal capital contribution—NDSL default rate—34 CFR 674.6a.* These regulations change the impact of an institution's default rate on its receipt of Federal capital contribution (FCC). The Secretary has adopted this change based on the strong recommendation of the General Accounting Office as well as comments from various sectors of the postsecondary education community. These regulations make any institution with a default rate in excess of 25 percent ineligible to receive FCC; institutions with default rates greater than 10 percent but not more than 25 percent will potentially receive reduced FCC.

The Secretary will determine the amount of new FCC for an institution by subtracting from its conditionaliy guaranteed level of expenditure both its projected collections and its reimbursements for Direct loan cancellations received in the base year. The difference obtained by that subtraction together with an institution's State and National increases will be multiplied by 90 percent to determine its FCC.

In projecting an institution's collections, the Secretary will consider its default rate. This term, as used here, excludes all defaulted loans assigned or those defaulted loans referred as of September 15, 1979, to the Secretary and defaulted loans on which the institution has secured a satisfactory repayment agreement. If the default rate is 10 percent or less, its collections will be projected by multiplying the institution's actual base year collections by 121 percent. (One hundred and twenty-one percent is used because the Secretary expects a 10 percent per year increase in collections in both the current year and the award year. A 10 percent collection increase over a two year period equals 121 percent of base year collections.) If an institution's default rate is greater than 10 percent but not more than 25 percent, its collections will be projected by multiplying the institution's actual base year collections by 121 percent, plus the additional amount which the institution would have collected if its base year default rate were 10 percent.

In order to calculate the additional amount that the institution would have collected if its default rate were only 10 percent (that is, the excess overdue amount), the Secretary determines the amount of deflaulted loane that would equal a 10 percent default rate. This is done by multiplying the total amount of matured loans by 10 percent. Second, the Secretary subtracts 10 percent of the matured loans from the principal amount outstanding on defaulted loans that the institution reports on its fiscal-operations report. Third, this difference is divided by the principal amount outstanding of defaulted loans that the institution reports on its fiscal-operations report. Fourth, the principal amount past due on defaulted loans is multiplied by the percent resulting from the division in step three to determine the excess overdue amount.

As an example, an institution's NDSL fund has:

- Matured loans totalling $3,605,191;
- Unpaid principal amount outstanding on defaulted loans, as reported on its fiscal-operations report, of $614,010;
- Past due principal amount on defaulted loans, as reported on its fiscal-operations report, of $323,414; and
- Total principal and interest collected, as reported on its fiscal-operations report, of $110,031.

Using these figures, the institution's excess overdue amount is calculated as follows:

(a) Ten percent of $3,605,191 (matured loans) equals $360,519.

(b) $614,010 (unpaid principal amount outstanding on defaulted loans) minus $360,519 equals $253,491.

(c) $253,491 divided by $614,010 equals .41.

(d) .41 times $323,414 (past due principal) equals $132,600, the excess overdue amount.

(e) $110,031 (the amount actually collected in the base year) multiplied by 121% equals $133,138.

(f) $133,138 plus $132,600 (the excess overdue amount) equals $265,738, the projected collections.

7. *Application review—Approval of request—Section 7 of each part.* The Secretary is including section 7 elements of the funding formula that an institution may appeal when requesting a review of its computed funding level.

The elements that an institution may appeal are: the determination of expected collections used in determining the FCC, including the excess overdue amount applied as a penalty to institutions with a default rate between 10 and 25 percent, the denial of FCC applied as a penalty to institutions with a default rate greater than 25 percent, and some of the elements used in calculating an institution's self-help and SEOG need. These elements include costs of books and supplies, average expected family contributions, enrollment data used to determine average tuition and fee costs, and the year used as the base year. These regulations also include the criteria used to evaluate appeals of these elements. The Secretary distributed to financial aid administrators information regarding the documentation appropriate to substantiate an appeal of particular items.

Further consideration NDSL default rate penalty: Although these rules are being issued as final regulations for the NDSL programs, the Secretary has noted that a number of commenters to the NPRM suggested that different types of institutions should be judged by different default rate standards. The Secretary is therefore interested in suggestions of ways to apply a default rate measurement and penalty, which give due regard to the relevant differences among the student bodies and types of institutions. A number of institutions commenting on the NPRM expressed the view that the income of the student/family, the location of an institution, and its educational mission all bear directly on the likelihood of borrowers to repay student loans made by that school. Among the comments to the NPRM, the Secretary did receive a few specific suggestions: Two commenters suggested that the average Pell Grant Eligibility Index at an institution could be used as a measure of the likelihood of student repayment of its loans. Each index or range of indices would then be assigned acceptable default rates on which the amount of FCC would be calculated.

Another commenter expressed the opinion that independent students represented a higher risk than dependent students, and warranted use of separate acceptable default rates. A number of others believed that an institution which "substantially" reduced its default rate had demonstrated a good faith collection effort and should receive the full FCC for which it qualified.

In view of these comments the Secretary is interested in any specific proposal regarding how to define the different types of schools, what default rates should be acceptable, and how to factor the institutional differences into the default rate penalty. Proposal should be sent to the contact person(s) indicated in this preamble.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291.

They are classifed as nonmajor because they do not meet the criters for major regulations established in that order.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the absence of any comments on this matter and the Department's own review, it has been determined that the regulations in this document do not require information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects

34 CFR Part 674

Education, Loan programs—education, Student aid.

34 CFR Part 675

Colleges and universities, Education, Employment, Grant programs—education, Student aid.

34 CFR Part 676

Education, Grant programs—education, Student aid.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these final regulations.

(Catalog of Federal Domestic Assistance Numbers 84.038 National Direct Student Loan Program; 84.033 College Work Study Program; 84.007 Supplemental Educational Opportunity Grant Program)

Dated: July 27, 1982.

T. H. Bell,

Secretary of Education.

The Secretary amends Parts 674, 675, and 676, respectively, of Title 34 of the Code of Federal Regulations to read as follows:

PART 674—NATIONAL DIRECT STUDENT LOAN PROGRAM

1. Section 674.3 is amended by revising paragraphs (a)(2) and (b) as follows:

§ 674.3 Apportionment and reapportionment of Federal capital contributions to States.

(a) * * *

(2)(i) If funds apportioned under paragraph (a)(1) of this section are insufficient to pay a Federal capital contribution (FCC) computed under § 674.6a(b)(1) to all qualifying institutions, the Secretary apportions the remaining funds so that no State will receive less than a uniform minimum percentage of the amount needed to pay the FCC computed under § 674.6a(b)(1) to all qualifying institutions.

(ii) If funds remain after meeting the FCC computed under § 674.6a(b)(1) of all institutions, the Secretary apportions them so that each institution receives the FCC computed under §§ 674.6, 674.6a, or 674.7.

(b) *Reapportionment.* (1) The Secretary reapportions the amount of a State's apportionment that exceeds the amount of approved requests of institutions in that State.

(2) The Secretary reapportions those funds among the remaining States in accordance with paragraph (a)(2) of this section. (20 U.S.C. 1087bb).

2. Section 674.4 is amended by revising paragraphs (a) and (b) to read as follows:

§ 674.4 Allocation and reallocation.

(a) *Allocation.* (1) The Secretary distributes Federal Capital Contributions (FCC) authorized by section 461 of the Act according to §§ 674.6, 674.6a, and 674.7.

(2) If funds apportioned to a State do not equal the FCC as computed under § 674.6a(b)(1) of all instutitions qualifying for FCC under § 674.6a(a), the Secretary reduces the FCC allocated to each institution in that State. The Secretary allocates to each institution in that State an amount bearing the same proportion to the FCC for which it qualified under § 674.6a(b)(1) as that State's apportionment bears to the amount needed to pay the FCC computed under § 674.6a(b)(1) of all qualifying institutions in that State.

(b) *Reallocation.* (1)(i) If an institution anticipates not expending all of its allocated funds by the end of an award year, it must specify the anticipated unused amount to the Secretary, who reduces the institution's allocation accordingly.

(ii) Other institutions may apply for the funds reported under paragraph (b)(1)(i) of this section on the form and at the time specified by the Secretary.

(iii) The Secretary distributes the funds reported under paragraph (b)(1)(i) of this section to applicant institutions in accordance with paragraph (b)(2) of this section.

(2)(i) If the funds that become available under paragraph (b)(1) of this section come from the State's initial allotment under § 674.3(a)(1), the Secretary reallocates those funds proportionately to other institutions in that State.

(ii) The Secretary reapportions those funds reported under paragraph (b)(1)(i) of this section that are not needed to maintain the State's initial allotment, and any funds that do not come from that initial allotment, in a manner that best carries out the purposes of the NDSL program.

* * * * *

3. Section 674.6 is amended by revising paragraphs (a), (b), and (c)(3) to read as shown below, and by changing the word "education" in paragraph (e)(4)(i) to read "attendance".

§ 674.6 Funding procedure.

(a) *General.* (1) Each institution applying for NDSL funds qualifies for an approved level of expenditure in the following three stages—

(i) A "conditonal guarantee;"

(ii) A State increase based on its "fair share" of the State apportionment; and

(iii) A national increase based on its "fair share" of the national appropriation.

(2) The terms "conditional guarantee" and "fair share" refer only to the level of expenditure. The Secretary computes the Federal capital contribution (FCC) according to § 674.6a.

(3) Definitions—As used in this section—

(i) "Base year" means the 12-month period ending on the June 30 preceding the closing date for filing an NDSL application.

(ii) "Current year" means the 12-month period ending on the June 30 immediately following the closing date for filling an NDSL application.

(iii) "Current year authorized level of expenditure" means—

(A) The FCC awarded for the current year; and

(B) The malching institutional capital contributions.

(iv) "Level of expenditure" means the amount of loans made in an award year plus the amount the institution claimed from the NDSL fund for administrative expenses in that year.

(b) *Conditional guarantee.* The Secretary computes a conditional guarantee of the level of expenditure in the following way:

(1) An institution that participated in the NDSL program in the 1980–81 award year receives a conditional guarantee equal to the greater of—

(i) $5,000; or

(ii) 90 percent of its 1980–81 award year level of expenditures.

(2) An institution that did not participate in the 1980–81 award year and is not a first or second time participant, receives a conditional guarantee equal to the greater of—

(i) $5,000; or

(ii) 90 percent of its level of expenditure for the first year it participated in the NDSL program after the 1980–81 award year.

(3) An institution applying to participate in the NDSL program for the first or second time receiver a conditional guarantee equal to the greatest of—

(i) $5,000;

(ii) 90 percent of

$$\frac{\text{NDSL expenditures in the base year by eligible institutions offering comparable programs of instruction}}{\text{Enrolled students in the base year in those same institutions}} \times \text{the applicant institution's base year enrollment; or}$$

(iii) 90 percent of its current year authorized level of expenditure.

(4) Notwithstanding paragraphs (b)(1), (2), and (3) of this section, an institution which was a first-time participant in the 1980–81 award year or any subsequent award year up to and including the base year, and received a higher conditional guarantee in the second year of participation, receives a conditional guarantee equal to 90 percent of its second year conditional guarantee.

(c) * * *

(3) As used in paragraphs (d) and (e) of this section:

(i) *Average cost of attendance* means the attendance costs for undergraduate and graduate students. These costs include tuition, fees, standard living expenses, books, and supplies. (The institution reports its total tuition and fee revenues, and the Secretary uses this amount to determine the average cost of attendance.)

(ii) *Eligible students* means students who—

(A) Where enrolled as regular students on at least a half-time basis in an eligible program during the base year;

(B) Met program regulation requirements for citizenship or residency in the United States for the base year; and

(C) Applied for financial assistance for the base year, and for whom the institution has on file taxable and non-taxable income data and all the other information necessary to perform a needs analysis using a methodology approved by the Secretary.

* * * * *

4. Section 674.6a is revised to read as follows:

§ 674.6a Funding procedure—Federal capital contributions (FCC).

(a) For any year, an institution may receive a Federal capital contribution (FCC) if its default rate is not more than 25 percent.

(b) An institution's FCC equals 90 percent of its—

(1) Conditional guarantee minus the reimbursements for Direct loan cancellations received in the base year and loan repayments calculated under paragraph (c) of this section;

(2) State increase; and

(3) National increase.

(c) For purposes of paragraph (b)(1) of this section—

(1) If the institution's default rate is 10 percent or less, the Secretary considers its loan repayments to equal 121 percent of the amount it collected in the base year; and

(2) If an institution's default rate is greater than 10 percent and not more than 25 percent, the Secretary considers its loan repayments to be—

(i) 121 percent of the amount collected in the base year; plus

(ii) The additional amount it would have collected in the base year if its default rate were 10 percent (excess overdue amount).

(3) The Secretary calculates an institution's excess overdue amount by—

(i) Determining the amount of defaulted loans that would equal a 10 percent default rate by multiplying the total amount of matured loans of the institution by 10 percent;

(ii) Subtracting 10 percent of the matured loans from the defaulted principal amount outstanding;

(iii) Dividing the amount obtained in paragraph (b)(3)(ii) of this section by the defaulted principal amount outstanding; and

(iv) Multiplying the actual amount of past due principal by the fraction obtained in paragraph (b)(3)(iii) of this section.

(d) The definition of "default rate," "defaulted principal amount outstanding" and "matured loan" are set forth in § 674.2. However, for purposes of this section, the Secretary, when calculating an institution's default rate, excludes from the numerator of that fraction the following:

(1) Notes referred to the U.S. Commissioner of Education on or before September 15, 1979 if the institution received either a notification of acceptance or a receipt from the Office of Education;

(2) Notes assigned to the United States on or before June 30 of the base year and receipted by the United States; and

(3) Notes that have been in default but on which borrowers have made satisfactory arrangements to resume payment.

(e) No institution may receive more Federal capital contribution than it requested.

(20 U.S.C. 1087bb)

5. Section 674.7 is revised to read as follows:

§ 674.7 Application appeal review.

(a) An institution may, at the time specified by the Secretary, request a review of its computed level of expenditure or its Federal capital contribution (FCC).

(b) A National Appeal Panel appointed by the Secretary conducts the review.

(c) Notwithstanding §§ 674.6 and 674.6a an institution may appeal the following elements used in determining an institution's NDSL level of expenditure or FCC award:

(1) For purposes of determining an institution's FCC award:

(i) The expected collections including the excess overdue amount used in determining an institution's FCC; and

(ii) The disqualification for FCC for institutions with a default rate greater than 25 percent; and

(2) For purposes of determining an institution's self-help need:

(i) The average cost of books and supplies;

(ii) The established expected family contributions;

(iii) The enrollment data used to determine average tuition and fee costs; and

(iv) The award year used as the base year.

(d) The Secretary and the appeal panel evaluate appeals on the basis of the following criteria and documentation required by the Secretary:

(1) The extent to which the institution can justify that an increase in NDSL collections of 10 percent per year is unreasonable.

(2) The extent to which the institution can justify that its base year default rate does not reflect—

(i) Its current default rate; or,

(ii) for institutions whose first loans entered repayment in the base year or the year preceding the base year, its current collection efforts.

(3) The extent to which the institution can justify that the average cost of books and supplies does not accurately reflect these costs at the institution.

(4) The extent to which the institution can justify that the standard expected family contribution figures do not accurately reflect the characteristics of the student body at the institution.

(5) The extent to which the institution can justify that the average tuition and fee costs derived from the institutions' enrollment data do not accurately reflect these costs at the institution.

(6) The extent to which the institution can justify that the base year used to determine its need for NDSL funds does not accurately reflect the institution's current need for NDSL funds.

(e) In establishing an institution's level of expenditure and Federal capital contribution, the Secretary considers the appeal panel's recommendations and its reasons for the recommendations.

(f) The Secretary establishes an approved level of expenditure and Federal capital contribution based on procedures in § 674.6 and § 674.6a and the appeal panel's recommendations.

(20 U.S.C. 1087bb)

~~PART 675—COLLEGE WORK-STUDY PROGRAM~~

~~1. Section 675.3 is amended by revising paragraphs (b)(2) and (c) as follows:~~

~~§ 675.3 Allotment and reallotment.~~

* * * * *

~~(b) * * *~~

~~(2)(i) If funds allotted under paragraph (b)(1) of this section do not meet the conditionally-guaranteed amount for all institutions, the Secretary allots the remaining funds so that no State will receive less than a uniform minimum percentage of the amount needed to pay all conditional guarantees.~~

~~(ii) If funds remain after meeting the conditional guarantees of all institutions, the Secretary allots them so that each institution receives a CWS allocation computed under § 675.6 or 675.7.~~

~~(c) *Reallotment.* (1) The Secretary reallots the amount of a State's allotment that exceeds the approved requests of institutions in that State.~~

~~(2) The Secretary reallots those funds among the remaining States in accordance with paragraph (b)(2) of this section. (42 U.S.C. 2752)~~

~~2. Section 675.4 is revised to read as follows:~~

~~§ 675.4 Allocation and reallocation.~~

~~(a) *Allocation.* (1) The Secretary distributes CWS funds according to §§ 675.6 and 675.7.~~

~~(2) If the funds allotted to a State do not meet the conditional guarantees of all institutions in that State, the Secretary reduces the allocation to each of those institutions. The Secretary allocates to each of those institutions an amount bearing the same proportion to the institution's conditional guarantee as the State's allotment bears to the total of the conditional guarantees of all institutions in that State.~~

~~(b) *Reallocation.* (1)(i) If an institution anticipates not using all of its allocated funds by the end of an award year it must, after determining the amount it will carry forward into the next award year, specify the anticipated remaining unused amount to the Secretary, who reduces the institution's allocation accordingly.~~

~~(ii) Other institutions may apply for the funds reported under paragraph (b)(1)(i) of this section on the form and at the time specified by the Secretary.~~

~~(iii) The Secretary distributes the funds reported under paragraph (b)(1)(i) of this section to applicant institutions in accordance with paragraphs (b)(2), and (3) of this section.~~

~~(2) If the funds that become available under paragraph (b)(1) of this section come from the State's initial allotment under § 675.3(b)(1), the Secretary reallocates those funds equitably to other institutions in that State. The Secretary reallots those funds that are not needed to maintain the State's initial allotment, and any funds that do not come from that initial allotment, in accordance with paragraph (b)(3) of this section.~~

~~(3) The Secretary reallocates any remaining funds as follows:~~

~~(i) Fifty percent to eligible applicant institutions to initiate, improve, or expand cooperative education programs conducted in accordance with Title VIII of the HEA; and~~

~~(ii) Fifty percent in a manner that best carries out the purposes of the CWS program.~~

~~(c) *Payments to institutions.* The Secretary allocates funds for a specific period of time. The Secretary pays funds to an institution in advance or by reimbursement. The Secretary bases the amount to be paid on periodic fiscal reports.~~

~~(42 U.S.C. 2752 and 2756)~~

~~3. In § 675.6 paragraphs (a), (b) and (c)(3) are revised to read as follows:~~

~~amount under § 676.20 during the 1977-78 award year. Institutional grants shall not include any student financial assistance that an institution is required by State law to provide from its own funds and for which is not free under any law in effect on January 1, 1979 to select the recipients or adjust the criteria by which the recipients are selected. Institutional grants shall also not include any student financial assistance that an institution contributed on behalf of the State for the SSIG Program.~~

* * * * *

~~4. Section 676.7 is revised to read as follows:~~

~~§ 676.7 Application appeal review.~~

~~(a) An institution may, at the time specified by the Secretary, request a review of the amount of funds it is scheduled to receive.~~

~~(b) A National Appeal Panel appointed by the Secretary conducts the review.~~

~~(c) Notwithstanding § 676.8 an institution may appeal the following fair share elements used in determining an institution's SEOG need:~~

~~(1) The average cost of books and supplies;~~

~~(2) The established expected family contributions;~~

~~(3) The enrollment data used to determine average tuition and fee costs; and~~

~~(4) The award year used as the base year.~~

~~(d) The Secretary and the appeal panel evaluate appeals on the basis of the following criteria and documentation required by the Secretary:~~

~~(1) The extent to which the institution can justify that the average cost of books and supplies does not accurately reflect these costs at the institution.~~

~~(2) The extent to which the institution can justify that the standard expected family contribution figures do not accurately reflect the characteristics of the student body at the institution.~~

~~(3) The extent to which the institution can justify that the average tuition and fee costs derived from the institution's enrollment data do not accurately reflect these costs at the institution.~~

~~(4) The extent to which the institution can justify that the base year used to determine its need for SEOG funds does not accurately reflect the institution's current need for SEOG funds.~~

~~(e) In setting an award amount, the Secretary considers the appeal panel's recommendations and its reasons for the recommendations.~~

(f) The Secretary sets an award amount based on procedures in § 676.8 and the appeal panel's recommendations.

~~(20 U.S.C. 1070b-3)~~

~~[Note: This appendix will not appear in the CFR]~~

Appendix A—Summary of Comments and Responses

The following is a summary of the public comments received on the proposed regulations published January 7, 1982, 47 FR 908, and the Department of Education responses to those comments. Generally, the comments appear in the order in which the aspects of the funding process to which they relate appear in the regulations.

Reallocation

Comment: A few commenters have agreed that deleting the natural disaster and national fair share criteria as they pertain to the reallocation procedures would be beneficial to the process at this time. However, one commenter did suggest that rather than opting for total discretion at this point, the Secretary should substitute some other specific provision.

Response: The Secretary proposed this change to increase flexibility to meet emergencies or unexpected problems. Substituting another specific provision would only defeat the purpose of the change.

Conditional Guarantee

Comment: One commenter stated that his school received a relatively large allocation, which it needed and used, as a second time participant in 1981–82, but had received only $5,000 the previous year. The commenter complained that the regulations will not permit the school to claim the more advantageous 1981–82 award year allocation as a basis for conditional guarantees in future years. Two commenters argued that the funding process did not do justice to newly-participating institutions. Another commenter would like to see the regulation changed to allow applicants to choose either 1979–80 or 1980–81 as a base year for the SEOG and CWS Program allocations.

Response: The first commenter correctly notes that regulations published on January 19, 1981 allow those second-time participants in the CWS and SEOG programs which did not participate in 1979 to claim a conditional guarantee in that second year based on either their first-year allocation or their current enrollment multiplied by the average expenditure at comparable institutions. Second-time NDSL program participants have the same option to increase their conditional guarantee that second year if their number of eligible students increases between first and second years. However, as the commenter correctly notes, the NPRM provided that all such institutions would receive conditional guarantees in their third year, and each year thereafter, based not on this possibly larger second year conditional guarantee, but on their first year allocation. That first year allocation may have been smaller than their second year conditional guarantee.

To meet the concern raised by the commenter, the Secretary is including a provision in these regulations to protect these institutions which would have lost conditional guarantee funds as third-time participants in spite of an increase in enrollment (for conditional guarantee purposes) since the 1980–81 award year. An institution which was a first-time participant in the base year and received a higher conditional guarantee in the second year of participation will receive a conditional guarantee in subsequent years equal to 90 percent of its second year conditional guarantee.

The funding formula assures new participants a conditional guarantee based on their actual enrollment in either their first or second year of participation. Older participants receive a conditional guarantee based on their level of expenditure in 1979 for SEOG and CWS, 1980 for NDSL. Institutions in either category which need more than the amount conditionally guaranteed must compete for a share of the funds appropriated in excess of the amount needed to meet conditional guarantees. The fair share of each is thereafter measured against the same objective norms. The Secretary considers this procedure, as revised in these regulations, to be fair to newer participants.

In response to the third comment, the Secretary notes that the Higher Education Act assures each institution an allocation equal to its 1979 CWS or SEOG expenditures, and he accepts this amount as the basis for subsequent conditional guarantees. To allow an institution to use either its 1979 or its 1980 allocation as a conditional guarantee would undermine the principle that increases in need after those years are to be measured by the same objective comparative standards and met through the "fair share" part of the funding formula.

Substantial Decline in Enrollment

Comment: One commenter complained that the conditional guarantee of an institution is reduced under these regulations where the total enrollment of an institution declines, without regard to the number or percentage of its eligible aid population. Another commenter complained that the standard of a 30 percent decline in enrollment used to trigger the reduction in conditional guarantee was unnecessarily high, and that a 10 percent reduction was substantial enough.

Response: The Education Amendments of 1980 assured institutions their 1979 level of CWS expenditures, but required the Secretary to reduce CWS awards to schools suffering a "substantial" decline in total enrollment. The Secretary realizes that an institution's need for CWS assistance does not necessarily decline at the same rate as its total enrollment, and thus reduces the institution's conditional guarantee in direct proportion to the decline, if any, in its population of students eligible for CWS.

The Secretary selected 30 percent to trigger this reduction rather than a smaller percentage to avoid reducing funding to schools, particularly those institutions with small enrollments, in which the decline in enrollment represented a loss of a relatively small number of students. To minimize the effect on an institution with relatively minor fluctuations in enrollment, 30 percent was chosen as the threshold for potential funding reduction.

Fair Share

Comment: One commenter wondered what would be used in place of (national) fair share after the conditional guarantee had been determined.

Response: The commenter misunderstood the change in the use of reallocated funds. The fair share concept is not being deleted in any way from the allocation process. As already addressed in a previous response, these regulations only eliminate national fair share as a predetermined priority for reallocated funds.

Collection and Level of Expenditures

Comment: One commenter complained that the regulations do not allow an institution which collects enough to operate its loan fund as revolving fund, to re-lend the full amount collected that year, but only an amount equal to 90 percent of the previous year's expenditures.

Response: If a school collects more than it expected, it may increase its approved level of expenditure simply by requesting the appropriate regional office of the Department to authorize a higher level of expenditure. Such an increase in the approved level of expenditure permits the institution to lend the full amount collected, but will not qualify the institution for any increase in its FCC for that year.

Cost of Attendance

Comment: Commenters from both predominately residential institutions and predominately commuter institutions claimed that the cost of attendance calculation used in determining the fair share portion of their allocations unfairly discriminated against their institutions.

Response: The amount appropriated in excess of the conditional guarantees of all institutions is divided based on a formula measuring relative institutional need. This "fair share" formula, in section 8 of each of the program regulations, has a variable and a fixed component. The fixed component is the "standard living expenses", set for the 1982–83 award year at $3,200. 47 FR 910, January 7, 1982. The variable component is the average tuition and fee charges for each institution, derived by dividing total tuition and fee revenues at that school by the number of students enrolled.

Data gathered by the Department shows that institutions with a large number of commuting students may appear to be favored by the $3,200 standard living expense figure, but those institutions also tend to have a high number of part-time students and thus a lower average tuition and fee charge. Conversely, institutions with mostly residential students may appear to be penalized by a standard living expense figure somewhat less than typical actual student expenses, but those same schools tend to have fewer part-time students and therefore a higher average tuition and fee charge. Furthermore, institutions which contend that the averaging of tuition costs misrepresents the real effect of those costs on the average cost of attendance at the institution may appeal that item under these regulations.

Default Penalty

Comment: Several commenters believed that an institution's NDSL default rate so depends on factors beyond its control, such as the type of student served by the institution, that application of the same default rate measurement to all institutions is unfair. These commenters contend that a loan program making funds available, without credit references, to needy students can be expected to suffer a large number of defaults. Other commenters urge use of a varying penalty rate, depending on the type of institution and the composition by income and dependency status of its student body.

Response: The NDSL fund is designed to operate as a revolving fund, supplemented by FCC. It is therefore reasonable for the Secretary to consider, before providing further FCC to an institution, whether such funds will in fact be administered and repaid in a manner consistent with that design. Based on the Department's own studies, as well as its experience in administering the NDSL program and in collecting student loans, the Secretary believes that institutional default rates, although related to the income levels of the student body, are more related to other factors clearly within the control of the institution. The latter include not only the quality of the institution's collection activity, but also the manner and type of loan counseling given student borrowers and the degree of student satisfaction with the quality of the education provided by the school.

These factors within the control of the institution bear on the absolute number of defaults on its loans, but NDSL regulations provide the institution with added means of reducing its default rate. The Department accepts assignments of defaulted NDSLs which the institution demonstrates were properly made and on which it exercised diligence in collection; both factors are clearly independent of the characteristics of the student body or the type of school making the loan. Such assigned loans are excluded from the calculation of the institution's default rate under § 674.6a(d)(2). Institutions may defer repayment, or revise repayment schedules, for all borrowers if extraordinary circumstances such as illness or unemployment warrant. § 674.34(e). Recent amendments to the statute allow an institution to extend the repayment period to accommodate the needs of low-income borrowers on new loans. § 674.34a(g)(1). This flexibility helps an institution more readily arrange repayment terms for low-income student borrowers who may have already defaulted, and loans on which satisfactory repayment arrangements have been made are excluded from the default rate calculation. § 674.6a(d)(3).

Comment: A number of commenters felt that the default penalty unfairly penalized current needy students because of the repayment history of past students. Two commenters proposed stricter loan making and collection procedures instead of such a penalty. Other commenters considered the default penalty to be unfair to small schools and those schools new to the collection of National Direct Student

Loans, because the presence of even a few borrowers in default at a school with few matured loans could easily distort the perception of the actual loan collection effort at an institution.

Response: The argument that these regulations penalize the currently-enrolled poor applies only with regard to a particular institution. If an institution receives a reduced FCC, or none at all, because of an unacceptable default rate, the funds which might have accrued to that institution will be allocated, instead, to other institutions, for needy students at those institutions. Because under the NDSL program Federal funds are loaned rather than granted, and because those loans are made only to needy students regardless of the institution making them, it is reasonable for the Secretary to allocate the limited available funds to those institutions with proven success at managing and collecting their loans. As discussed earlier, the imposition of the default penalty is not unfair or harsh with regard to the institution itself, and similarly neither harsh nor unfair to the universe of needy students. The Secretary agrees that an institution which is just starting to collect its first NDSL accounts may experience a high default rate despite careful loan counseling and diligent collection, solely because a few defaults may represent a high percentage of its small number of matured loans. Therefore, for the 1982–83 award year, if an institution's first NDSLs entered repayment status between July 1, 1979 and June 30, 1981, the Secretary interprets the appeal criterion in § 674.7(d)(2) to allow such a "new" institution which demonstrates that its default rate has steadily declined to receive FCC despite a default rate greater than 25 percent.

Comment: Some commenters stated that the selection of 10 percent as the maximum acceptable default rate is unrealistic and arbitrary. Another commenter felt that the sanction of eliminating FCC for institutions with default rates in excess of 25 percent is too harsh.

Response: Neither the reduction of FCC based on default rates, nor the selection of 10 percent as the maximum default rate permissible without affecting FCC calculation, is arbitrary or unrealistic. The General Accounting Office (GAO), in reviewing collection efforts on the NDSL program, has strongly recommended that the Secretary establish an acceptable default rate and withhold Federal funds from schools that exceed that rate. These regulations adopt that recommendation.

The 10 percent figure selected as the maximum acceptable default rate, as measured according to § 674.6a(d), in fact approximates the actual national average default rate for the fiscal year ending June 30, 1980 (11.8 percent).

That average, moreover, includes those loans in default more than nine years, which may be excluded from the default rate calculation for appeal purposes, as explained later in these comments and in instructions for appeals already disseminated to the financial aid community. Furthermore, the percentage of institutions with default rates of 10 percent or less increased from 40.5 percent in fiscal year 1980 to 45 percent in fiscal year 1981. The Secretary expects that the percentage of institutions with rates of 10 percent or less will continue to increase. These regulations allow institutions to further reduce their default rates by demonstrating on appeal the success of their collection efforts through December 1981. Moreover, the graduated effect of the default rate sanction serves as a simultaneous sanction and incentive for improvement for institutions with unacceptably high rates. For these reasons, the 10 percent figure is neither arbitrary nor unrealistic.

Data compiled by the Department through June 30, 1981 shows that less than 12 percent of all institutions have default rates in excess of 25 percent. It is likely that after completion of the appeal process less than 10 percent of all institutions will still be found, for default penalty purposes, to have default rates over 25 percent.

To institute a credible sanction, the Secretary believes, as GAO has recommended, that an absolute tolerable default rate must be adopted. In light of this data, the selection of 25 percent as the maximum tolerable default rate is reasonable.

Comment: One commenter asserted that eliminating FCC to an institution with a default rate in excess of 25 percent created an unappealable, irrebuttable presumption against its receiving funds. The commenter argued that this sanction had an impermissible "disparate impact" on Black and Hispanic students, and sought a waiver of this bar for institutions serving substantial numbers of such students, at least to allow such schools access to the appeal process.

Response: The commenter misunderstands the regulation. The NPRM used the phrase "default penalty applied to institutions with a default rate greater than 10 percent" to include both the reduction and the elimination of FCC. As stated in the NPRM, if the Secretary initially applies the default rate sanction to reduce or eliminate the FCC an institution may receive, the institution may appeal that "default penalty". § 674.7(c)(1)(ii). It does so by demonstrating that the default rate triggering that sanction, a rate derived from base year statistics, is no longer accurate, and that an acceptable rate has been reached. § 674.7(d)(2). The Secretary has here modified the wording of this section to clarify this point. Institutions with default rates between 10 and 25 percent may appeal the penalty by appealing their "expected collections".

Contrary to the commenter's arguments, Title VI of the Civil Rights Act of 1964, and *a fortiori*, a "disparate impact" standard, obviously do not apply to or control actions by the Department in distributing NDSL funds; nonetheless, any institution initially barred from receiving FCC because of a default rate in excess of 25 percent may appeal that denial through the National Appeal Panel process.

Comment: The same commenter stated that the Department improperly exaggerates the institution's default rate by deriving that rate from statistical categories different from those specified in the regulations. The commenter contends that in measuring the default rate, the Department should consider only those payments past due and in default on loans at that school, noted at Section (c), line 8, column (f), page 37 of the institution's Fiscal-Operations Report and Application to Participate in the NDSL, SEOG and CWS Programs (FISAP), not the entire principal amount outstanding on those loans, noted in column (e) of that same section of the FISAP.

Response: The commenter misunderstands the calculation of default rate. The regulations define "default rate" as the "defaulted principal amount outstanding" divided by the total principal amount outstanding on matured loans, *i.e.* those which have at any time entered repayment status. § 674.2. "Defaulted principal amount outstanding" is defined as the *total amount borrowed* that has reached the repayment stage, minus amounts repaid or cancelled, *on loans repayable monthly and in default at least 120 days* (or 180 days if repayable less frequently). The *total amount borrowed* on matured loans is obviously in *repayment status* (§ 674.2 and Section C–1, FISAP, p. 9) and thus that entire amount is to be counted under the regulatory default rate formula, not merely the amount of those installments past due. The formula in § 674.2 and that used in calculating entries on line (8), column (f) of section C of the FISAP are thus the same. Moreover, the terms of the NDSL loan, Part 674, Appendix B, Section (2)(A), permit the institution to accelerate the loan if *any* installment is missed. Both the regulatory definition of "defaulted principal amount outstanding" and that in the FISAP count only the outstanding balance on loans in which at least *three* consecutive payments are missed. It is reasonable to assume that after three payments are missed the obligation to repay the entire balance of such loans has, or should have, been accelerated by the institution. On an accelerated loan, that entire outstanding balance is in fact due and in default, rather than merely the one or two missed payments.

Comment: Two commenters felt that the default rate problem could be solved with fairness to all types of institutions by allowing a more prompt assignment of loans to ED rather than requiring an institution to wait two years. One commenter suggested that 120 days would be more appropriate. Finally, one commenter felt that the default rate problem commonly encountered by community colleges was due to the large number of students who transferred to four-year institutions. These students have little need for transcripts from the former since such records often become part of the records at the four-year institutions. Besides this loss of leverage, the increased difficulty in tracking borrowers who transfer contributes to the default problem at these schools.

Response: The two-year period referred to by the commenters is mandated by Section 463(a)(5) of the Higher Education Act and may not be changed by the Secretary. The Secretary concedes that the high number of transferring students can for several reasons create particular difficulties for community colleges, but does not concede that these difficulties warrant exception from the default rate penalty. First, such a school may appeal the calculation or application of the default rate penalty. Secondly, the school may assign to the Department loans in default for two years and thereby exclude them from the default rate calculation, if the school properly documented the loans and exercised due diligence in attempting collection. The school must include loans in default less than two years in its default rate calculation; however, diligent use of the Department's skip-tracing service, or employment of a commercial skip-tracer, would help reduce the number of defaults related to the highly-transient nature of its student body. Neither imposes any additional financial burden: the former service is free, the latter, chargeable to the NDSL fund.

Appeals

Comment: Several commenters raised objections not to the appeal criteria and documentation requirements listed in the NPRM at § 674.7 (c) and (d), but to the appeal instructions and suggested documentation information recently mailed to financial aid administrators. These commenters contend that the Secretary by distributing this information in a direct mailing rather than publishing it in the Federal Register bypassed the publication requirements in the General Education Provisions Act (GEPA).

Response: This comment, which bears not on the proposed rule but on its implementation by the Department, misconstrues the nature of the material mailed to participating institutions regarding appeal procedures. The instructions merely list the appeal criteria already specified in the NPRM and suggest appropriate documentation to substantiate an appellant's claim for relief from the Department's determination of a particular funding element. Other material may be supplied, and submission of the specified documentation does not assure a successful appeal. The instructions add no requirements or procedures to those published in the NPRM, and GEPA does not, therefore, require their publication. Furthermore, by previewing the substance of those instructions at workshops conducted for the public in the fall of 1981, the Secretary gave ample advance warning of their content; by mailing them as soon as they were finalized directly to the affected individuals, financial aid administrators, the Secretary further respected the reasons underlying the publication requirement.

Comment: A number of commenters specifically complained of one of the appeal instructions described earlier which allow institutions to exclude loans which have been in collection for at least nine years from their default rate calculations. Proprietary institutions complained that this specific option discriminated against them.

Response: The Secretary believes that measurement of collection effort of many institutions is distorted by requiring them to include loans in default nine or more years in their default rate calculation year after year. By allowing exclusion of these loans from the default rate calculation for institutions which choose to appeal a default rate penalty, the Secretary intends no discrimination against proprietary schools. Rather, the exclusion of such pre-1972 defaults eliminates from the default rate measurement process only those loans made before the Office of Education offered formal guidelines to participating schools on proper loan management and collection practices. The first NDSL collection procedures were published in a 1967 loan manual. Loans made pursuant to the new instructions typically reached repayment status in fiscal year 1972, nine years before the base year used for statistical purposes on current applications for FCC. Faulty loan execution and inadequate collection efforts on loans maturing in 1972 are therefore fairly considered the school's responsibility, hence those later defaults are properly counted against the school's default rate. Because most proprietary institutions first participated after 1972, and had from the start the benefit of directions on loan management and collection, it is reasonable to measure them against the standards expected of other institutions at that time.

Timing of Regulation and Funding Process

Comment: A number of commenters stated that by publishing these final regulations so shortly after publishing the NPRM and notifying institutions of their tentative allocations for award year 1982–83, the Department showed no interest in seriously considering comments submitted in response to the NPRM.

Response: The Secretary admits that the short time between the publication dates of the NPRM and of these final regulations condensed the comment consideration period more than might have been desired. Each comment was fully considered, however. Furthermore, the Secretary stresses that every effort was made to alert the financial aid community to the changes made in these regulations, and to solicit comments from interested parties, well before the publication of the NPRM, through workshops conducted for financial aid administrators. This amply demonstrates a serious effort to publicize proposed changes and respond to community reactions to them.

Comment: One commenter requested additional information on the definition of "small entity" used by the Department under the Regulatory Flexibility Act. The same commenter also disagreed with the Secretary's certification that the regulations would not have a significant economic impact on a substantial number of small entities. The commenter believed the default penalty and verification provisions would have a significant economic impact.

Response: The Department uses the definitions of "small local educational agency" and "small institution of higher education" published on January 16, 1981, at 46 FR 3920. If the Department decides to change these definitions, new definitions will be published in the Federal Register for public comment. Since these regulations apply to institutions of higher education, the definition of "small institution of higher education" is applicable. More specifically, since the full-time equivalent student enrollment figures were not readily available, this definition includes those institutions with a total student population of less than 550.

The phrase "significant economic impact" is not defined in the Regulatory Flexibility Act. The proposed regulations did not establish any mandatory verification requirements. Therefore, it was not possible to attribute any economic impact to this provision. The verification requirement has been deleted from these final regulations.

Two categories of institutions are affected by the default penalty: those with default rates between 10 and 25 percent, which have their FCC reduced, and those with a rate exceeding 25 percent, which receive no FCC for that application. For those institutions in the first category, with default rates between 10 and 25 percent, the FCC is reduced by the "excess overdue amount," that portion of their defaulted loans which would have been received if the institution had a 10 percent default rate. The institution, in other words, is treated as if it had an acceptable default rate, and had collected the amount it would have recovered had it a 10 percent rate.

To assess economic impact on small institutions, one must determine the amount of the penalty affecting those schools. For several reasons, the exact dollar amount of the penalty applied to small institutions as a group cannot be determined.

First, new FCC is based on the difference between the approved "level of expenditure", 34 CFR 674.6(b), and lendable resources available to the institution: its actual and projected repayments, its reimbursements for teacher service, and military service of its borrowers. The "excess overdue amount" is treated as another resource. The amount of these resources varies widely from school to school; a school theoretically suffering reduced FCC because of a default rate between 10 and 25 percent may have sufficient resources, such as actual loan repayments and/or cancellation reimbursements, that it in fact has the same amount of funds made available to it as if there were no penalty. Second, as a result of the decrease in the fiscal year 1982 NDSL appropriation, many schools will in fact receive less FCC than they would qualify for in years with larger appropriations. In computing the "average" reduction attributable to the default penalty, it was assumed that the national average "percentage fundable" was 85.84 percent. This figure is that percent of new FCC for which all institutions qualify which the NDSL appropriation suffices to fund. In fact, as appeals are decided, the total amount for which institutions qualify will in all likelihood increase; the greater the total amount of funds for which institutions qualify, the smaller the percentage of that amount funded will be.

For these reasons, the "average" reduction in FCC attributable to the default penalty used in the following analysis thus overstates the real effect of the penalty in many cases. For the 1982–83 award year, preliminary data indicates that if the amount attributable to the default penalty, considered in isolation, were in fact to reduce FCC, the 275 small institutions affected would suffer an average reduction of $6,988, an amount sufficient for about 10 average loans. On the other hand, 542 large institutions will suffer, in theory, an average reduction of $46,102. Furthermore, the elements on which the default penalty reduction is based may be appealed and modified, further reducing the average decrease in FCC. Finally, funds actually withheld from small institutions with unacceptable default rates will be redistributed to those small institutions with acceptable rates. There will be, therefore, no *net* impact on small institutions, as a group, with default rates in the 10–25 percent range. For all these reasons, the Secretary concludes that this provision of the regulations will not have a significant economic impact on a substantial number of small institutions in the first category.

Institutions in the second category, those with default rates over 25 percent, will not qualify for FCC under the new rule. Current regulations allow such institutions new FCC only if they demonstrate that despite the rate, they are exercising due diligence in collection. 34 CFR 674.6a(a)(3), 46 FR 5251, January 19, 1981. The economic impact of the *revised* default penalty for schools in this category is, therefore, the difference in treatment between current and revised rules. Under current procedure in award year 1981–82, small schools with default rates greater than 25 percent experienced an average amount of FCC withheld because of the penalty of $27,843; larger schools experienced an average withheld FCC amount of $81,132. Under the new rule, small schools with default rates over 25 percent will experience an average FCC withheld of $24,057, and large schools, $66,878. The new rule in fact has less average impact on small schools. These figures for 1982–83 under the new rule are somewhat overstated, again, for the same reasons as applicable to those schools in the 10–25 percent default range; schools excluded in preliminary calculations may likewise successfully appeal that determination and qualify for FCC. For these reasons the Secretary concludes that the new rule will not have a significant economic impact on a substantial number of small institutions in this second category.

Miscellaneous

Comments: Three miscellaneous comments were received. One commenter indicated that his institution accepted the loan accounts of an institution that went out of business. As a result, he does not think it fair that his institution's default rate should include the loan accounts from that closed school. A second commenter suggested deleting the CWS reallocation provision which devotes to cooperative education programs 50 percent of those funds remaining after meeting the State's initial allotment and any deficiency in any institution's conditional guarantee. Finally, a third commenter requested that institutions be given a choice in the selection of base year to use for the institutional gift aid figure in the SEOG need calculation.

Response: The main reason an institution accepts the fund from a closed school is to increase the size of the fund from which it can make loans to its own students. An institution that accepted the loan accounts of a closed school must be willing to accept the liabilities as well as the benefits of having another institution's accounts assigned to it. Second, the cooperative education program provision is a statutory requirement, and therefore, the Secretary has no authority to delete it. Third, in implementing the statutory formula for determining SEOG need the Secretary selected 1977–78 as the year for measuring institutional gift aid after extensive discussion with the financial aid community. There was general agreement that use of a fixed year would eliminate that disincentive to increasing institutional gift aid which a moving base year might create. Given the settled expectations of participating institutions regarding this position, the Secretary does not believe it desirable to change the list of appealable items to permit appeals of this item so late in the current funding cycle, but will consider allowing such appeals in the future.

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Mr. **Simon**. Before we call on our witnesses, let me ask my colleagues if they want to add anything.

Mr. Ford.

Mr. **Ford**. Thank you, Mr. Chairman.

I am very happy to see you having hearings on this matter and frankly I am a little bit taken by surprise that the Department of Education would move as precipitously as they have in this matter. After dragging their feet with the regulation, sort of tantalizing all of us with what they had in mind, they have now moved in a way which really catches many of these institutions off balance.

I am certain, Mr. Chairman, that during these hearings the Office of Education will be happy to tell us about their stewardship of the Education Amendments of 1980, which you and I passed with all the members of this committee virtually in agreement. We fully intended to improve the loan collection situation not only with respect to NDSL, but with GSL's as well.

Indeed, even in the very worst case described here by the Department, used as justification for these regulations, the schools are doing much better with these loans than anybody is doing with the veteran's cost of instruction loans.

I continue to be amazed that program can continue in the 50-percent repayment rate consistently year after year and nobody seems to want to do anything about it. However, it is not under our committee's jurisdiction.

If one looks at the loan collection record of loan programs under your committee, Mr. Chairman, over the last 4 years you will see an extraordinary improvement statistically in the collection.

That didn't just happen by accident. It happened through the persistent efforts of the committees on the House and Senate side in urging the previous administration and the current administration to institute businesslike practices at all levels of the loan administration. It was also intended to assist the smaller institutions which did not have the business office capacity in the early stages of the participation in the program to anticipate how much detail and how much business acumen was going to have to be allocated to the program.

I recall during the 1980 reauthorizations and prior to that, in 1977, when we were considering what eventually became the Middle Income Student Assistance Act in 1978, that among the many facets of loan collections, we analyzed the problem of NDSL's.

I shared some stereotypes which people had developed over the years about the kind of people who had trouble paying back their loans. I fully expect that when you observe a population of students in a school which is heavily populated with children from low-income areas of a community and low-income family backgrounds and low-income personal experience before they get to the institution, that all which is reasonable tells you that the chances that a large number of those students are going to escape very far from the low-income base that they are launched from are not very great.

The chairman's contrast between Harvard and Yale and East St. Louis is a good one. I look at the high default rate list and see institutions in the city of Detroit which are representative of the population of a city which has been experiencing a 60-percent unemployment rate among black youth aged 18 to 25 for well over 3 years.

How in the world could anybody pay a loan back there? I don't see anything indicating that the Department realizes the difference between coming out of a training program in a Detroit or a Pittsburgh or a Cleveland or an Akron. Why just look at Akron alone where I very recently found out they won't even be making automobile tires after October of this year.

There are parts of this country that are just totally devastated economically. There are programs that 3, 4, 5 years ago made all kinds of sense in terms of training people and aiming them toward employment.

Employment is gone. It just seems to me in the middle of the greatest period of unemployment we have had since the depth of the Great Depression that the Department of Education shows no sensitivity to the impact of the times that we are in and the conditions that we are in on this program.

It is almost a miracle when one looks at the deterioration in the last 3 or 4 years of the economy in the industrial northwest and northeast, and what was becoming the industrial southeast, and recognizes that at that very same time there is a constant decrease in the default rate in this program.

How could you be doing better at collecting money when job opportunities have been disappearing by the thousands every month? They must be doing something right at these schools if they improved default rates under the conditions which they have been operating under for the last 4 years.

I submit that they have been improving because we made changes as recently as 1980, and then again in 1981 with respect to IRS cooperation, that have not yet had an opportunity to fully impact the institutions.

I think the Department is moving too fast and too radically. I would hope that this committee could slow them down a little bit and we can pause and reason together over the realities of where we are.

Maybe what they want to do now would make sense if the institutions had a couple more years to see how they react to the changes which were made in Federal law, the regulations which ought to be made to implement those changes, and then some upturn in the economy.

I would become panicky, Mr. Chairman, if unemployment was going down and loan collections were going down with it. But when I see unemployment going up and loan collections going up at the same time, that is the best indicator of a good faith effort on the part of both the borrowers and lenders which one could possibly find.

How can you argue with the fact that when things are getting tougher, people are paying better? Does that indicate that people are not making the effort they were before? I don't think so, and I don't think the administration has the right response for what everybody recognizes as the problem.

Obviously, we would like to have 100 percent collection because then we would have more money to make available to other students who need it. But this is not the way to reach 100 percent collection. This is the way to truly discourage people from making any effort.

The schools which are trying to improve, Mr. Chairman, and those that have been making some improvement, are going to get a kick in the teeth with this regulation. It will say to them, don't bother to improve anymore because even if you try, you can't make the impossible goal we are trying to give you. So just quit. Stop running the race. You are too far behind to win, so don't even finish.

That is what these regulations will do. I hope that the committee will seriously consider modifying the regulations at the very least before they are allowed to go into effect.

Thank you, Mr. Chairman.

Mr. **Simon**. Mr. Erlenborn.

Mr. **Erlenborn**. Thank you, Mr. Chairman.

I don't have a prepared statement, but let me say those who are truly friends of the national direct student loan program ought not automatically react against a proposal to improve the collection of these loans and to decrease the default rate because this program will not be sustained, will not be supported if we continue with the sort of default rate that we have had in the past in all too many institutions that have taken advantage of this program.

I don't know if these are the best regulations to effect better collection. I applaud, Mr. Chairman, your calling this hearing so that we can hear some testimony and make that judgment.

But there seems to be on the part of some that automatic adverse reaction to any proposal to force institutions to improve their default rate. Many institutions have a very good collection rate, a default rate of 3 to 5 percent in many institutions. That low, 3 to 5 percent, is not unusual. Yet, there is another group of institutions where default rates run 80 percent and higher.

I think it is very interesting when one looks at the list that has been published in Higher Education Daily of the institutions that will be affected by these regulations. One thing stands out: Academic institutions are by and large not included in this list; proprietary institutions by and large are.

The profitmaking institutions have been taking advantage of this program and have had the highest default rate. In my own State of Illinois—I won't read the names in full of these institutions, I don't want to embarrass anyone, but let me just read parts of the names of the vast majority of the institutions in Illinois: the Academy of Beauty Culture, Institute of Cosmetology, Coiffure School of Beauty, another school of beauty, School of Cosmetology. It is these proprietary institutions.

The same thing in California. You should see the list of the institutions in California. I haven't counted them, but it looks like there are a couple hundred institutions in California that would be affected. Most of them are like the Mountain View Beauty College, Universal Beauty Academy, Medical and Dental Assistants School, another beauty college. These are almost entirely proprietary institutions that have these high default rates.

My colleague from Florida—not Florida, I bet he wished he were—from Michigan—particularly these days I bet you wish you weren't from Michigan—suggests that it is the economic times that have caused these high default rates. These default rates have been at these extremely high levels for many, many years, long before we were in the recessions of the last couple of years.

Again, Mr. Chairman, I don't know if this is the best approach, but let me say that politically this program will not be supported unless we begin to make attempts to reduce these default rates and to disqualify those who have made no attempt to collect the defaulted loans.

Let me also say that I believe that efforts to improve the collections began in the last administration under Secretary Califano. I applaud the efforts that he began and have been followed up by successors in the Department of Health, Education and Welfare and Department of Education.

Mr. Chairman, I hope that we will find a way to work cooperatively with the Department of Education to see that this program is made to work better, that the loans that are made are collected, and therefore the program can continue. If not, I predict that the program will have to terminate.

Thank you, Mr. Chairman.

Mr. SIMON. Mr. Peyser.

Mr. PEYSER. Thank you, Mr. Chairman.

Mr. Chairman, I will be brief in this. I think it is important to note that what we are seeing here is a pattern that is absolutely consistent in this administration. This administration started out with the purpose of ending Federal support to education in this country.

They have had amazing success, unfortunately, over the last year and a half. We have been able to hold on to some things, but you know if the 1983 budget that the President presented to us were enacted, we would have cut over 50 percent of all Federal aid to education in 2 year's time.

What they are trying to do now with the direct student loan, as I say, is totally consistent with the grand plan. Within the next couple of years, if they can it seems the plan is to eliminate all of these programs. I think that is what we have to be very careful of.

In a very brief response to my friend from Illinois, who cited a number of schools dealing with development of people learning the trades, whether it is beauty parlors or mechanics or things of this nature, we are talking about the people, poor people who are trying to learn a craft or a skill that can ultimately let them become taxpayers in this country, so they can get out of the absolute depths of the poverty situation that they are in.

If we have losses in this direction, so be it. These people are making an effort, and I don't think we can look at names and titles of schools and say those are the ones that have the big default rate. Those may be the very ones who are reaching the people that nobody else is reaching and giving them a chance at life today.

I think it is vital that this effort continue. It isn't just those schools, incidentally, but community colleges around this country that also reach in an economic sense, and in many cases students from a lower level of the economy.

We will hear testimony this morning from the Sullivan County Community College, which is typical of many small community colleges that are really doing a very important job in education and yet are suffering under the new proposed regulations that will have a terrible impact on them and will strike at the very young people that we should be most concerned about helping in education.

I am hopeful that the results of this hearing will be a change in these regulations, a striking back at what I view to be an outrageous program that this administration is on in terms of education.

There are just so many other places that money can be saved and that money can be used. So much spending is just totally irrelevant to the future of our country especially when taken out of education.

I yield back the balance of my time.

Mr. **Erlenborn**. Would the gentleman yield?

Mr. **Peyser**. I would be glad to yield to my friend.

Mr. **Erlenborn**. Let me just say that the gentleman tries to justify the nonrepayment of these loans on the basis of the economic conditions of the loan recipients. If you want this to be a grant program, make it a grant program, but don't clothe a grant program in the guise of a loan program.

I would also suggest that there is plenty of evidence that lawyers and doctors who achieve their professional status who are now working for the Government are refusing to repay their Government loans. It isn't just the poor people.

Mr. **Peyser**. I have no argument with those people. In fact, I am all for getting them. This committee has moved over the last several years, as the gentleman well knows, toward every effort to make those collections. We should keep doing it.

The gentleman did cite the kind of cases that I think—and it is not a grant program—where we ought to hold out the hope and believe that many can repay. But if they don't, so be it. It doesn't mean we give up on them. But it gives them the chance. They are the poorest ones in the economic sense, and they are the ones who most desperately need this program.

I yield back the balance of my time.

Mr. **Ford**. Mr. Chairman, I just have to respond to the assertion by the gentleman from Illinois that if you want to make it a grant program, make it a grant program. I guess he and I are the only two survivors from the writing of the 1965 Higher Education Act. Then we indeed tried to make it a grant program and Congress wasn't yet ready for what we later did with something called BEOG's—now Pell grants. We fooled around, for some time, for example, on how much the interest rate was going to be.

I don't believe there was anyone on the committee at that time that really gave much attention to the question of what loan collections were going to be. I don't think there was anyone at that time who realistically believed that the collection of loans was going to impinge on our intent to expand the availability of loans because we were concentrating then on a population that to a great extent that now actually is the population that is being served by this program.

The gentleman is one of the great friends in this Congress of the guaranteed student loan program. We have worked together over the years to protect and enhance that program. But he knows full well that his friends in the banks and my friends in the banks don't want these kids. They didn't want them in 1965, and still don't want them.

If we let this program close up for the very poorest of those participating in the program, there is no place for them to go. Are they going to go and take the more scarce dollars now in the guaranteed student loan program? No.

What we are really talking about is squeezing out the people at the very bottom of the bottom and not leaving any alternative for them. Some of them I suppose without access to the loan might qualify for an adequate BEOG grant, now called a Pell grant, and that might replace it. It will put an additional strain on that program, I guess, at the very time that the gentleman's party has adopted a budget to cut the money in that program.

Now, you can say what you want, John, nobody on this committee has worked harder than you and I have to protect the integrity of these programs by seeing to it that money was collected.

We are not automatically saying that you shouldn't collect or that you should forget about collections because we are dealing with poor people who don't have access to jobs at the level of the economy where they are trying to enter the job market. But the facts of life are such that if the administration goes ahead with this regulation, it is going to be one more way to demonstrate that the poorest of the poor, as Chairman Perkins so frequently describes them, are going to be pushed out.

I find it interesting to see that what you call academic schools are indeed included in this list. I see at least three on the high default list in Michigan which produce an awful lot of people for the University of Michigan, which we proudly recognize as the finest public university in the country bar none.

I know you folks in Illinois long for the day when you could beat us either in football or academically and that you have some feeling of inadequacy. But I am proud to live in Michigan, even when we are unemployed.

Mr. Simon. On that provincial note, we are going to take a recess for a rollcall.

[Recess.]

Mr. Peyser [presiding]. We will start the hearing again. Chairman Simon will be back in just a few minutes. We do want to move this along.

We are very pleased to have as the first witnesses this morning my colleague, Walter Fauntroy, who has certainly over the years expressed a deep concern in the areas of education and particularly the impact on the poor. Accompanying him is Rev. John Satterwhite, on behalf of the Black Churches and Colleges/Universities Network.

Walter, if you would start, we would be delighted to hear your testimony.

STATEMENT OF HON. WALTER E. FAUNTROY, A DELEGATE IN CONGRESS FROM THE DISTRICT OF COLUMBIA

Mr. Fauntroy. Thank you, Mr. Chairman.

I certainly appreciate the opportunity to appear before the committee. I want to express my heartfelt appreciation to the Subcommittee on Postsecondary Education for providing me the opportunity, in my capacity as chairman of the Congressional Black Caucus, to testify before you on the serious concern which we in the Caucus have with the Department of Education's untimely and, in our view, ill-considered proposed rule changes in the national direct student loan program.

While my colleagues and I in the Congressional Black Caucus share a concern with the impact of these proposed rule changes on all students and institutions of higher education, I will be confining my remarks to what we perceive to be the impact of these proposed rule changes on black students and predominantly black institutions of higher education.

Mr. Chairman, as you know, on July 28, 1982, the Department of Education published a list of 528 institutions that would become ineligible to receive the NDSL allocations due to proposed rule changes making any institution with a default rate in excess of 25 percent ineligible for additional NDSL funds.

This ruling will have a devastating impact upon 59 predominantly black institutions of higher education. The majority of these institutions lack a substantial resource base from which to operate and maintain existing programs.

Before listing that impact, however, let me just familiarize you with some important history that I think bears on the proposed cutbacks.

Black institutions of higher education have only received Federal support since 1965, when Congress provided for equal opportunity through access to educational funding. Thus, only recently has there been a Federal commitment to ameliorating previous inequities in support of predominantly black institutions of higher education.

Additionally, the proposed rule changes appear to have been made within a context that ignores the improved collection rates at the affected black institutions. The proposed rule change will have the actual impact of penalizing black institutions with an improved record of collection.

Mr. Chairman, the 59 affected black institutions of higher education have performed a very special mission in providing an educational opportunity to the majority of our Nation's black students, enabling them to enter the mainstream and contribute to the well-being and wealth of our Nation.

At this point I would like to focus on the victims of the proposed rule changes. Students who have nothing to do with institutional shortcomings in administering the NDSL program will be penalized by this proposed rule change. They are being made pawns in a fiscal and political controversy not of their own making.

The timing of the proposed NDSL change is particularly cruel and, in our view, irresponsible. It comes on the eve of a new school year and will have a devastating impact at this point in history because of previously legislated cuts in the Pell grant program, the supplemental educational opportunity grant program, and college work study programs.

It comes at a time of depression-level unemployment and underemployment in the black community with, as you know, rates of unemployment nearing 20 percent in the black community generally and in many of our communities as high as 60 percent for black teenagers.

Of course, this places severe restrictions on the abilities of black families to contribute toward meeting the expenses of their young people for higher education. Over 90 percent of black students attending institutions of higher education already have extremely limited resources on which to draw for higher education expenses.

The proposed rule change, coming at this late date, so close to the advent of the fall semester, threatens chaos, with campus-based student financial aid awards only being tentative allocations.

Many institutions among the 59 affected had counted on NDSL allocations to provide the first portion of a given student's payments on tuition obligations. This proposed rule change of the Department of Education has the potential to impact upon and sacrifice the educational plans of 125,000 black students at 59 predominantly black institutions in 18 States of our Nation.

In place of this proposed rule change, it would seem to us to be far more constructive, responsible and sensible to establish a partnership between the Federal Government and these affected institutions to set up a timetable for repayment and to provide technical assistance to correct the default situation that these institutions find themselves in today.

Rather than implementing this ill-considered rule change, I would recommend for consideration to this subcommittee a 1-year moratorium on the implementation of the proposed change. This would provide the necessary time period to provide the institutions with the necessary technical assistance to correct a situation that has had its roots in historical neglect of predominantly black institutions of higher education.

This would be a far wiser choice, in our view, and would enable our Nation to protect and promote some very valuable national resources, 125,000 black students and 59 valuable institutions, which are a vital part of our Nation's educational infrastructure.

I want to thank you for having offered us this opportunity to be here to open this hearing on this subject.

[Prepared statement of Hon. Walter Fauntroy follows:]

PREPARED STATEMENT OF HON. WALTER E. FAUNTROY, A DELEGATE IN CONGRESS FROM THE DISTRICT OF COLUMBIA

Mr. Chairman, I want to express my appreciation to the Subcommittee on Postsecondary Education for providing me with the opportunity in my capacity as chairman of the Congressional Black Caucus to testify before you today on the serious concerns which we in the Congressional Black Caucus have with the Department of Education's untimely and ill-considered proposed rule changes in the national direct student loan program. While my colleagues and I in the Congressional Black Caucus share a concern with the impact of these proposed changes on all students and institutions of higher education, I will confine my remarks to what we perceive as the impact of these proposed rule changes on black students and predominantly black institutions of higher education.

Mr. Chairman, as you know on July 28, 1982, the Department of Education published a list of 528 institutions that would become ineligible to receive NDSL allocations due to proposed rule changes making any institution with a default rate in excess of 25 percent ineligible for additional NDSL Funds.

This ruling will have a devastating impact upon 59 predominantly black institutions of higher education. The impact of such a cutback on black institutions of higher education will be especially severe. The majority of these institutions lack a substantial and secure resource base from which to operate and maintain existing programs.

Such proposed cutbacks and rule changes appear to ignore some very important history. Black institutions of higher education have only received Federal support since 1965, when Congress provided for equal opportunity in access to educational funding. Thus, only recently has there been a Federal commitment to ameliorating previous inequities in support of predominantly black institutions of higher education.

Additionally, the proposed rule changes appear to have been made within a context that ignores the improved collection rates at the affected black institutions. The proposed rule change will have the actual impact of penalizing black institutions with an improved record of collection.

Mr. Chairman, the 59 affected black institutions of higher education have performed a very special mission in providing educational opportunity to the majority of our Nation's black students enabling them to enter the mainstream and contribute to the well being and wealth of our country.

At this point, I would like to focus on the victims of the proposed rule change. Students, who have nothing to do with institutional shortcomings in administering the NDSL will be penalized by this proposed rule change. They are being made pawns in a fiscal and political controversy not of their making. The timing of the proposed NDSL change is particularly cruel and irresponsible.

It comes on the eve of a new school year and will have a devastating impact at this point in history because of previously legislated cuts in the Pell grant program, the supplemental educational opportunity grant program and college work-study programs.

It comes at a time of depression level unemployment and underemployment in the black community with rates of unemployment at about 20 percent and one out of every three black workers affected by unemployment. This places severe restrictions on the abilities of black families to contribute toward meeting the expenses of higher education.

Over 90 percent of black students attending institutions of higher education already have extremely limited resources on which to draw for higher education expenses.

The proposed rule change coming at this late date, so close to the advent of the fall semester threatens chaos with campus-based student financial aid awards only being tentative allocations, many institutions among the 59 affected, had counted on NDSL allocations to provide the first portion of a given student's payment on tuition obligations.

This proposed rule change of the Department of Education has the potential to impact upon and sacrifice the educational plans of 125,000 black students at 59 predominately black institutions in 18 States of our Union.

In place of this proposed rule change it would be far more constructive, responsible, and sensible to establish a partnership between the Federal Government and these affected institutions to set up a timetable for repayment and to provide technical assistance to correct the default situation that these institutions find themselves in.

Rather than implementing this ill considered rule change, I would recommend for consideration to this subcommittee a 1-year moratorium on the implementation of the proposed change. This would provide the necessary time period to provide the institutions with the necessary technical assistance to correct a situation that has its roots in the historical neglect of predominately black institutions of higher education.

This would be a far wiser choice and would enable our Nation to protect and promote some very valuable national resources, 125,000 black students and 59 valuable institutions which are a vital part of our Nation's educational infrastructure.

I thank the subcommittee and you, Mr. Chairman, for the opportunity to appear before you this morning.

Mr. FAUNTROY. I am so very pleased, as you indicated, to have accompanying me Dr. John Satterwhite, who is a man of longstanding support and participation in higher education as a clergyman and as a leader in our church community.

Dr. Satterwhite is currently the professor of ecumenicity at the Wesleyan Theological Seminary and formerly served as the dean of the Hood Theological Seminary and professor at Livingston College, one of our fine black colleges in the country.

Dr. Satterwhite is also the editor of the African Methodist-Episcopal Zion Quarterly Review and in all those capacities has committed himself to developing a creative partnership between black institutions of higher education and our churches, in an effort to promote the survival and sustain the ability of our students to acquire higher education in this country.

STATEMENT OF REV. JOHN SATTERWHITE, BLACK CHURCHES AND COLLEGES/UNIVERSITIES NETWORK

Reverend SATTERWHITE. Thank you very much, Congressman Fauntroy.

Mr. Chairman and members of the subcommittee, I want to express my appreciation to you, the Subcommittee on Postsecondary Education, for providing me an opportunity in my capacity as a member of Black Churches and Black Colleges/Universities Network and as a board member of the National Conference on Black Churches and Churchmen to testify before you today on the serious concern we, as the black church, have with the Department of Education's untimely and defeating proposed rule changes in the national direct student loan program.

Although my colleagues and I in the Black Churches and Colleges/Universities Network are concerned about the effects of the proposed rule changes on all students and educational institutions, I will confine my testimony to the potential impact that these proposed rule changes will have on black students in predominantly black colleges and universities.

Black colleges, universities, and seminaries are splendid hallmarks of higher education's contribution to American pluralism and play the vital role in maintaining both diversity in educational choice and autonomy from Government control.

Historically, the black colleges and universities were primarily founded and supported through private philanthropic sources. These institutions have never depended solely on Government Federal funding of any kind.

However, during these times of austerity, we, the Black Churches and Black Colleges/Universities Network call upon the Government to be understanding, compassionate and realistic in its giving assistance to help preserve such a rich educational heritage.

These colleges and universities have educated great scholars in the following areas: social sciences, health and medical sciences, applied sciences, physical and military sciences, religion and theology.

Mr. Chairman and members of the subcommittee, as the Black Churches and Black Colleges/Universities Network, we are deeply concerned about the effects of the proposed NDSL regulation changes on the 140 black colleges and universities of this Nation.

We are especially concerned about the immediate effects of these changes on the 59 black colleges and universities listed by the Department of Education as those that will not receive additional

NDSL allocations because their NDSL default rate is in excess of 25 percent.

Our particular concerns with the default penalty section of the proposed regulation changes are as follows:

First, although there may have been high default rates 10 years ago, since the NDSL regulations of recent years, the collection rates at many black colleges/universities have improved. Thus, we believe that new applicants should not be penalized for previous defaulters.

Second, black colleges/universities have only received Federal support since the bipartisan Congress of 1965 passed the education acts providing for equal opportunity in access to educational funds.

Thus, it has only been through those acts and legislation of successive bipartisan Congresses, including the present one, that this Nation has begun to remedy the previous gaps in support of black higher education.

Therefore, to impose such drastic cutbacks in student aid at this point in history in the face of severe unemployment, which has taken a heavy toll on the economic resources of black families, reflects an insensitivity to the educational needs of and in the black community.

Third, because our black institutions of higher education perform a special mission in educating the majority of this Nation's black students, thus enabling them to enter the mainstream and become productive taxpayers, we need to insure that the national support for equal opportunity in higher education, which has so recently come to the scene, is not negated.

Mr. Chairman, although the black colleges and universities of this Nation are predominantly black, they have always extended an invitation with the hope that black, brown, red, yellow, and white persons will elect to participate in the liberation of persons for our redemption and to enhance the quality of life for all in this country.

This is the methodology of black educational institutions which have their roots in the black church: the capacities that our brothers and sisters have in common; the experiences of the church in daily communion as students and educators striving to find new ways to create channels for liberation and newness of life; and the ability to provide leadership to bring about a society dedicated to the well-being of persons.

In closing, Mr. Chairman, and members of the committee, let me therefore state that the Black Churches and Black Colleges/Universities Network recommends the following:

First, that there be a 1-year moratorium on the implementation of the proposed regulation changes to provide time for public comment and possible amendments; and

Second, that the Black Churches and Black Colleges/Universities Network will work closely with black graduates to encourage them to repay their NDSL loans on a timely schedule.

I sincerely thank you, Mr. Chairman and members of the committee.

Mr. PEYSER. I thank both of you gentlemen for your statements.

Due to the fact that we have a vote on the budget reconciliation on the floor right now, I am just going to ask for a brief comment from each of my colleagues here. One, I think your statements are excellent and very much to the point.

I would like you to recall that it wasn't many months ago that President Reagan, in a 5-minute radio talk on education, said that he wanted to assure black colleges in this country that they had nothing to worry about, that his administration was dedicated to keeping them going and to keep the opportunity for them. Now we see the result of that, but this is not unlike a lot of other promises and safety nets that had been set out by the administration.

I thank you for your testimony. I certainly am in strong agreement.

Mr. Erdahl, would you like to comment?

Mr. ERDAHL. Thank you very much, Mr. Chairman.

Before doing that I should mention that our chairman, Paul Simon—maybe he got the message to you—asked me if I would run back and get the meeting started. I was detained by a State senator from my State who wanted to get into the gallery. But this is just to let you know that Mr. Simon's absence is not an indication of his lack of interest because he was called into an Illinois delegation meeting.

I just want to also commend both Dr. Satterwhite and Delegate Fauntroy for their statements and the emphasis that they have, and also the specificity of your suggestions. I think most of us would agree that while we need some regulation, we should have regulations hopefully that don't negatively impact on some people that need to get an NDSL. Sometimes it is a ticket out of poverty or a new chance for the best shot at life possible.

On the other hand, I think we have to realize that in this time of austerity that we must see that we do a better job of collecting. I think your comments here were well-taken. I think of the local hometown banker. If he has trouble collecting loans, he doesn't quit making them. He does a better job of explaining them in the first place and a better job of collecting them in the second place.

I hope we can do that probably with some modifications in the proposal that we received from the department.

Thank you very much, Mr. Chairman.

Mr. PEYSER. Thank you.

Mr. Weiss.

Mr. WEISS. Thank you very much, Mr. Chairman.

The only thing I want to add is that obviously the timing of this proposal is just utterly reckless and heedless of the consequences that it is going to have on both students and the institutions.

On that basis alone it seems to me that the department would be well advised to review what it has done and at least provide a 1-year interim period so that people can adjust to what in fact they are expecting to be done. The testimony was just outstanding.

Thank you, Mr. Chairman.

Mr. PEYSER. The committee will recess. We will return for the next panel as soon as this vote is completed.

[Recess.]

Mr. SIMON [presiding]. The subcommittee will renew its hearing. My apologies for being absent. We have a little thing called a tax bill that we had a meeting on.

We are pleased to have a panel here and to present as the first witness the president of Sangamon State University, with which I was once affiliated. I am sure they may deny that, but it is a fact. We are pleased to have the president of Sangamon State University from Illinois here.

Dr. Lacy.

STATEMENT OF ALEX LACY, PRESIDENT, SANGAMON STATE UNIVERSITY, SPRINGFIELD, ILL.

Mr. LACY. Mr. Chairman, thank you very much.

We do not deny that, and I think the chairman should know that our faculty has reserved a place for you. We hope you don't call on that place until about 2001 because we would rather have you here, but the place is still there.

Mr. SIMON. I thank you.

Mr. LACY. Mr. Chairman, you have my opening statement. I would not attempt to repeat that. I would like to make a couple of points that I believe might be phrased a little differently from the very good points that have been made so far both by the previous witnesses and by the members of the committee.

I am not here because our institution stands to take a significant financial loss on this matter. We stand to lose only about $13,000 this year if this regulation is adopted. That does mean, however, that about 12 students will not be able to attend our institution as a result. That is a significant number. I am more concerned about the politics and philosophy of the situation than the actual amount of money that we stand to lose.

It appears to me that by administrative practice and now by proposed regulation the Department of Education in effect is attempting to rewrite congressional intent for this program.

We now have financial aid offices and business offices across this country in a great state of confusion about this program. I am afraid in actual day-to-day practice, as they consider the loan making opportunities, the focus is now on the security of the loan, not the need of the student.

I would hope that this committee could find a way to reemphasize the clear congressional intent of this program to aid needy students. It is a subtle matter, perhaps, but I believe it is true that not just those institutions that have default rates above 25 percent, but those in the 10- to 25-percent range, and those who fear they may be reaching the 10-percent range, that they are perhaps overly concerned in these economic times about the security of the loans they are making.

Second, Mr. Chairman, I believe the points have been very well made already this morning that this action is very untimely both in terms of the academic year and the current financial planning of students and in terms of the current state of this economy.

Furthermore, I can see no constructive results coming from this regulation. I can clearly see a number of very negative results coming from this regulation.

The regulation penalizes innocent students who have nothing to do with this default rate. I think that is a great shame. Although it is difficult to document, it is my belief, Mr. Chairman, that the likelihood is that if this regulation is adopted, it will in effect reallocate money away from most needy students and toward students who perhaps have other alternatives of financing their education.

You noted, Mr. Chairman, in opening this hearing, the example of East St. Louis as one of our most difficult economic areas. Nearly half the students who are in default at my institution grew up and came to us from East St. Louis.

We know these students well, we know their current circumstances. Many of these students are the first members of their extended families ever to receive a baccalaureate degree. Many of the students who are in default are currently employed. It also happens that they have other debts, some of those also connected to their education that they have to pay, some of those to banks where the banker's opportunity to delay collection are not as great. Also, they have families to support. In many instances, because they now have a baccalaureate degree, they are the only members of their extended families with a job. Food and rent has to come first.

We are in correspondence with many students who are in default. The only option that I have left to me as president with these students is to go to litigation. I have not yet taken that step, which I believe is the only option I have left, because I don't believe the courts can do anything more than our business officer has done. I don't believe they can collect the money any more successfully.

I do believe that these students are going to pay as soon as the opportunity presents itself to them in a reasonable way for payment. I would hope, Mr. Chairman, this regulation could be delayed for at least a year so that during that period of time other alternatives which might be more constructive could be considered.

Thank you very much.

Mr. Simon. Thank you.

We will hear from all the witnesses and then have questions.

[Prepared statement of Alex Lacy follows:]

PREPARED STATEMENT OF DR. ALEX B. LACY, JR., PRESIDENT, SANGAMON STATE UNIVERSITY, SPRINGFIELD, ILL.

Mr. Chairman, Members of the Committee, thank you very much for the opportunity to testify on this important subject. I want to thank you, Mr. Chairman, and all of the members of this committee for the outstanding leadership that you have given on the critical issues concerning higher education that have been before you in the past two years. These are difficult times for our nation's colleges and universities. You have brought sound reason and a constructive perspective to bear on the important debate that we have had about higher education in this administration, and I am certain that the positions you have taken in this committee in support of higher education will pay rich dividends for our nation in the long term. Our colleges and universities remain the one basic institution in our society which have a range of resources equal to the scope of the problems faced by our society. We have within our colleges and universities capabilities which can make a vast difference as our nation looks to the future, and we appreciate the support and guidance of this committee as we attempt to husband those capabilities and apply them wisely.

The NSDL program is one of those central programs that has served our country well over the years. It has brought a college education within reach for many of our young people who, without the program, would not have had the opportunity for formal study beyond high school. I have been dismayed, Mr. Chairman, by recent rhetoric which seems to attempt to redirect the intent of this program. The rhetoric is essentially that there has been a change in the public mood from support for needy students to support for a policy of making safe loans which are certain to be repaid. The rhetoric, Mr. Chairman, has created much confusion about this program to the extent that the journal, Business Officer,[1] reported in its last issue that "Colleges and universities find themselves in a dilemma about whether to treat NDSL solely as a program for needy students or act more like a lending institution and minimize risks."

Quite to the contrary, congressional intent in this program is clear, both in the language of the Act and the legislative history of the bill. The program is aimed at providing loan funds to students in need. If you had wanted us to apply the criteria that a bank would apply in making a loan, you would have designed a different kind of program. However, you did provide a need-based program and certain risks are involved in that kind of loan-making.

The results of the program, Mr. Chairman, have been well worth the risks. At Sangamon State University, I believe that we have done a good job of implementing congressional intent in this program and our results have been impressive. We have taken young people off the street corners, provided them with a solid educational opportunity, and watched as most of them now make significant contributions to our society and to its economy. They are paying taxes now. Without this program, it is likely that many of these former students would be drawing tax funds in this economy. The vast majority of these students have paid their loans on time and have been responsible in every way toward this program. The need-based program has worked, and my first request is to urge this committee to reiterate that this is the continuing congressional intent for the program.

On a second matter, Mr. Chairman, I want you to know that we have taken our collection responsibilities seriously. We have made every effort to collect these loans, the Department of Education rhetoric about us notwithstanding. We have used every collection tool available to us, including the use of our state's most successful private collection agencies. We have tried to implement every suggestion that the Department has ever made to us concerning collection. In our institution, the matter has had the careful attention of myself as President and of our governing board, the Illinois Board of Regents. We have taken creative steps in the collection programs. This year, for instance, the President of our student body and I wrote a joint letter to each delinquent former student explaining the importance of their repayment to this current generation of students whose financial needs are extraordinary. That plea got results. I assure you, Mr. Chairman, that, whether or not new funds are made available to us, we will continue to make every effort to collect these loans.

However, Mr. Chairman, I hope that even yet steps can be taken to delay the Secretary's decision relative to the distribution of the new dollars. The decision is not an appropriate remedy or penalty for the problem. It hurts innocent students—this current generation of students whose needs, at least in the case of Sangamon State University, are very urgent. The Secretary's decision does not put us in a better position to collect the money, and thus is not a constructive decision. Furthermore, it foils congressional intent by, in its effect, redistributing the new dollars away from those who need it most urgently and have no other alternatives toward those who need it less and may have other alternatives.

Furthermore, the timing of the Secretary's decision could not be worse. It comes at a time when student need is very high. The general state of the nation's economy, continued inflation as reflected in tuition and fee charges and other costs of education, and major reductions in other federal student aid programs make this fall a particularly difficult time for many students and their families. A reconsideration of this decision, or at the least delaying it for a year, could make a big difference in the individual lives of many students.

A number of questions should be considered during a reconsideration period. The Department's definition of institutional delinquency, for instance, is one of these questions. The delinquent list does not include those institutions who have elected to turn their loans in default back to the Department. These loans are still due, those institutional default rates are really still high. In a very real way, some of these institutions have been less responsible than those of us who are still trying to cope with the problem, collect the money, and in so doing refused to pass the buck back to the Department. Yet these institutions will receive new dollars and we will not under the current Department of Education policy.

I hope, Mr. Chairman, that this committee will request the Secretary to delay the implementation of his decision for this year's appropriation accordingly. The time could be used to develop other, more effective, more equitable steps to achieve the goal of collecting all of these loans. To that end, I would recommend that the Secretary convene a task force of Presidents from institutions with high default rates and give them a mandate to come up with alternatives over the next ninety days for a new policy that could be implemented during this next year.

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[1] "ED Assessment of NDSL Program Indicates Why Borrowers Default, How to Collect Loans," Business Officer, Vol. 16, No. 1 (July 1982), p.7.

Thank you, Mr. Chairman.

Mr. **Simon**. Next, Leo Corbie, acting vice chancellor, the City University of New York. We are pleased to have you here.

STATEMENT OF LEO CORBIE, ACTING VICE CHANCELLOR, THE CITY UNIVERSITY OF NEW YORK, ACCOMPANIED BY ANGELO B. PROTO, DEAN FOR STUDENT SERVICES

Mr. **Corbie**. Thank you, Mr. Chairman and members of the subcommittee.

I thank you for this opportunity to comment on the recently released regulations of the campus-based student assistance funding process as they apply to the national direct student loan program.

I am Leo Corbie, the acting vice chancellor for student affairs and special programs of the City University of New York, the largest urban-based university in the Nation, dedicated to the principle of access to higher education.

It is composed of 18 colleges—9 senior colleges, 1 technical college, 7 community colleges, and 1 graduate center—with an enrollment of 173,000 students.

Its mission is to provide education to all of the people of New York City who are seeking higher education. We are leaders in the area of open admissions because of this mission.

The population that we serve is poor, evidenced by the fact that of the 110,000 students receiving student financial aid, over 70 percent of them come from families with incomes of less than $12,000.

Since the 1972 amendments to the Higher Education Act, the philosophy of access and choice of higher education has been widely accepted. This philosophy is a good one, one to which the City University of New York fully subscribes. CUNY provides access.

The new proposed NDSL regulation, without postponement, will deny to the university approximately $2 million of Federal capital contribution to this NDSL fund. Additionally, the nonreceipt of the Federal funds will result in the loss of $225,000 of matching funds from the State and city as the institutional share of new funds. This means that 3,500 students will not be able to receive loans at the City University of New York.

The university is opposed to the timing of the regulations as it relates to the funding process and the university's planning and operation for financial aid. It is also opposed to the appeals mechanism, which do not allow for consideration of factors such as the institution's efforts in collections and the nature of the students they serve.

The old regulations permitted the schools to receive funding from the national direct student loan program if they either showed significant improvement in reducing their default rate or certify that they were in compliance with the due diligence requirements with respect to loan servicing and collections. Under the old regulations, schools had to be in a position to prove compliance with due diligence to receive new funds.

City University has reduced its default rate from 46 percent to 22 percent in 3 years. While we are asking that these regulations be postponed so that CUNY, the City University, can receive funds to assist the students for 1982-83, it has not been negligent in its efforts to service and collect on its own student loans.

The university is opposed to high default rates and has taken actions to address the problem. We are spending over $1.5 million per year to service our loan portfolio. We have stepped up our collections activity in recent years by using more aggressive collection agents, litigating more and by lending out second placement collection contracts.

We have recently used a tactic which was used by the Department of Education. We match our defaulters against our payroll records and are pursuing payment from those people aggressively.

Plans have been made to set up an in-house collections group to supplement our contracted collection agents, a payroll match against State and city payrolls if there are no legal barriers, and more rigorous quality assurance standards.

The issuance of this regulation was poorly timed in the sense that it came after the end of the year from which the data was used to derive the default rate and the proposed penalties. It was designed to affect the funding of schools for the year 1982-83, which for the NDSL program is derived from 1980-81 program operations.

The notice of proposed rulemaking was issued on January 7, 1982, well after the time when schools could have made operational adjustments to accommodate the revised standards.

It would appear that a regulation should be issued in a reasonable timeframe which would allow schools to adjust their planning and operations to minimize any negative effects. In this case, it clearly did not allow time for those adjustments.

Postponement of the effective date of the new regulations will allow colleges to grant NDSL loans on the basis of assumptions made in good faith under regulations in effect in the spring and summer of 1982. Moreover, schools will be able to adjust collection efforts to conform to newly developed default formulas.

Finally, postponement will allow time for the Secretary to develop default formulas which reflect divergences among different types of institutions. The university is not asking for rescinding of the regulation, merely for a 1-year postponement.

In addition, it is safe to assume that when a student receives less funding in the NDSL program, students will turn to the GSL program, increasing the volume in it. Not only will this result in higher Federal costs in the GSL program, it will have a devastating effect on poor students who will face higher repayments upon separation from school.

CUNY has made sufficient effort in servicing its loan portfolio so that it should not be penalized for the commitment to a mission of educational access to a low-income population. These regulations do not make an accommodation for serving different missions, different types of students and different demograhics of geographic location.

We are willing to assist the Secretary of the Department of Education in developing a fairer regulation which will consider more than mere percentages. However, until such a rule is developed, we ask that this one be postponed so that the old regulation, which at least accommodates effort, is used to determine institutional funding in the NDSL program for 1982-83.

When the new rule is developed, we hope that it will be implemented with full consideration given to the timing of the funding process and the operational processes at institutions.

In summary, CUNY has made strides to lowering its default rate. The need for postponement is only fair and equitable given the timing of these new regulations by the Department of Education.

Thank you, Mr. Chairman. I will be glad to answer any questions the committee has as this time.

Mr. SIMON. Thank you very much, Dr. Corbie.

Mr. SIMON. Next is President Isaac Miller of Bennett College in Greensboro, N.C.

We are pleased to have you here.

STATEMENT OF ISAAC H. MILLER, PRESIDENT, BENNETT COLLEGE, GREENSBORO, N.C.

Mr. MILLER. Thank you, Mr. Chairman.

I am deeply appreciative of the opportunity to appear before this subcommittee and to submit a statement. You will find that I have provided a statement for insertion in the hearing record on my own as president of Bennett College, but I shall be presenting the position of the United Negro College Fund in my oral statement to the committee.

Mr. SIMON. All the statements will be entered into the record.

Mr. MILLER. I am Isaac Miller, president of Bennett College in Greensboro, N.C. Bennett is a 4-year institution for women, enrolling approximately 600 students, affiliated with the United Methodist Church and founded in 1873.

I am here, as stated, not only on behalf of Bennett College but also on behalf of the United Negro College Fund and its member institutions.

Mr. Chairman, Bennett is one of eight UNCF institutions which will be able to participate in the National Direct Student Loan. I might point out that this is because of our default rate, but in consideration of earlier testimony, the amount of participation that has been projected might include us with that 59 that was earlier stated as not participating at all as a result of this proposed legislation, and this is what we are faced with.

Cut from the program are 34 UNCF institutions that comprise approximately 81 percent of our institutions that are 4-year, fully accredited private institutions serving the truly needy of our State.

Let me say, Mr. Chairman, that Bennett finds no honor in this distinction. These proposed regulations, if allowed to go through with the elimination of the due diligence clause, will lock out of the NDSL program many small institutions.

Many students attending these colleges will be forced to look to lower cost institutions for completion of their education. There is already a high feeling of anxiety. The uncertainty over the predictions of additional cuts in NDSL, Pell grants and SEOG's in fiscal year 1983-84 has already had a negative impact on our present school year.

At Bennett College and I am sure at other institutions around the country, the freshman class is getting smaller and upper classmen are beginning to transfer to State and 2-year institutions.

The NDSL program has helped many Bennett students to finance their education costs. Since 1957, there have been 1,462 Bennett student borrowers, totaling in excess of $1 million in loans.

Through the years, the average loan has ranged from $100 through $1,500. At present, Bennett has a default rate of 19 percent. Currently at Bennett 166 students are in default for 1- to 5-year NDSL loans, owing an amount approximately of $134,670. There are 50 students in default for the 5- to 9-year NDSL loans, owing some $17,121.

In an effort to bring our default rate down into compliance, the college initiated the following steps:

First, the college loan officer now interviews every prospective borrower. The student is kept reminded of her loan status while at Bennett. At graduation, or when the student leaves before graduation, the loan officer holds an exit interview and sets a loan repayment schedule.

Second, a special notification is sent to borrowers who may be teaching and who have not filed a teacher cancellation form. Under present rules, a student borrower teaching in a designated area can have a loan gradually forgiven. However, unless a notice is filed, the institution is held liable for the loan.

Third, the transcript of any student in default is held until payment is made.

Fourth the college has contact with the Wachovia Service, Inc. and the Central Adjustment Bureau, who serve as the billing and collecting agencies respectively. The Central Adjustment Bureau charges the college 33⅓ percent for all accounts that they take, regardless of whether they are able to collect or not.

An institution such as Bennett, which has limited resources, is doubly burdened in attempting to collect on loans. Moneys which normally would go to academic programs must be used to pay the collection agency. Loans which are turned over to the Department of Education and are later collected go to the Federal Treasury rather than to the institution, thus eliminating the appropriation for future generations of students from receiving loan aid.

Twice this year our very old loans were turned back to the Department of Education. While the college is no longer responsible for these loans, it derives no benefit from them, but this was the only way we could lower our default rate, by lessening our ability to lend to needy students.

Yet, Bennett College, while it has taken these painful and costly measures to reduce its default rate and now judged to be eligible for NDSL's, we still will not be able to receive any new federal capital contributions from the Department of Education. As a result, Bennett will find it extremely difficult to meet the needs of its needy students, of whom 80 percent require financial assistance.

In the larger picture, restrictions on NDSL will make Bennett College less able to compete for students. Our sister institutions, who will receive no additional NDSL funds, will suffer even more than Bennett. These are the institutions supporting the truly needy students. This again is a clear example of the needy being penalized for being poor.

You see, the NDSL reduction alone would not kill us, but taken together, with smaller Pell grants, SEOG grants and college work-study aid, can potentially destroy us as an institution.

The percentage of students attending UNCF colleges on NDSL is 17 percent. The percentage of students on guaranteed student loans is 4 percent. Many of our students who are extremely poor are considered by commercial banks as high-risk borrowers, therefore, they refuse to lend them GSL funds.

Many black students view the NDSL program as a black student loan program because they can get NDSL's when they are unable to get the GSL's.

Over time, the guaranteed student loans have become a middle- and upper-income student loan program. The guaranteed student loan program grant is the most costly loan program to the Federal Government.

While the national default rate for GSL's is higher than NDSL's, 12.3 percent versus 11.12 percent, there is no similar penalty being directed toward recipients of those institutions and students.

I, and the United Negro College Fund, would hope that the Department of Education would suspend, at least for 1 year, its NDSL regulations.

This would enable many institutions who have diligently labored to reduce their NDSL default rates to be eligible. Hopefully, within a year, new proposals will be considered by the Department of Education that will not penalize institutions that serve the most needy students.

I appreciate the opportunity of presenting this testimony and will respond to any questions at an appropriate time.

Mr. SIMON. Thank you very much, Dr. Miller.

[Prepared statement of Isaac Miller follows:]

PREPARED STATEMENT OF ISAAC H. MILLER, JR., PRESIDENT, BENNETT COLLEGE, GREENSBORO, N.C.

Chairman Simon, honorable committee members, thank you for inviting me to participate in the Subcommittee hearing on the National Direct Student Loan regulations. I am profoundly grateful for this privilege of offering testimony bearing on the policies governing the eligibility of colleges to participate in the NDSL program and receive new Federal Capital Contributions.

Bennett College is a four-year liberal arts college for women, related to the United Methodist Church. Some 600 students pursue degree programs there annually. The College has participated in the National Direct Student Loan Program since 1957. During the intervening years there have been 1,462 borrowers. The amount that was originally lent was $1,237,268. The loans that were made ranged from $100 to $1,500. Currently 266 borrowers are in default for 1-5 years, owing $134,670; there are 50 borrowers in default 5-9 years, owing $17,121. The College is assessed a 19 percent default rate. The authorized lending level for the 1982-83 fiscal year is $46,990 affecting approximately fifty students. No new Federal Capital Contribution has been committed in spite of the fact that the default rate is between 10 percent and 25 percent and no appeal has been registered. The capacity of the College to serve students to the extent of the lending level authorized is dependent on the rate of collection of outstanding loans.

Bennett College has been able to lower its default rate through a combination of (1) due diligence and (2) referral and assignment of loans. A full time Loan Officer is assigned the responsibility for administering and monitoring the student loan program.

Upon application, a student is interviewed in an effort to determine whether she is a good credit risk. It is stressed that the loan is an obligation that is due and payable according to a given schedule and that repayment bears upon her credit record as well as upon the ability of the College to lend to other students.

The student is reminded of her loan status at intervals during her matriculation at the College.

At graduation or upon learning of a borrower's intent to withdraw from the College, the loan officer holds an exit interview with her during which a schedule for repayment is agreed upon.

A special notification goes out to borrowers who may be teaching who have not filed the teacher cancellation forms with the Office of Financial Aid.

Transcripts of record are withheld if a student is in default.

The College uses Wachovia Services Incorporated as billing agency and Central Adjustment Bureau (Dallas, Texas) as collection agency. The use of these agencies coupled with the aforementioned internal measures has made it possible to keep the default rate moderate. Twice during the past two years, the College referred or assigned old loans in default to the Office of Education, further reducing its default rate. The highest default rate experienced at any time was approximately 29 percent.

Bennett College serves students largely from low-income families. 80 to 85 percent of them receive some form of student aid in varying amounts in most every case the assignment is needs-based. Typically the student has a financial aid package comprised of allocations from the Pell Grant, the campus-based programs and others. For most recipients the NDSL represents an essential element in an assistance program that is very delicately structured.

Measures that adversely affect the availability of NDSL funds can seriously restrict the opportunities of the Bennett student. The measures that penalize a college for its default rate have a more immediate and distressing impact on the student in denying him or her the critical finanical assistance that is needed to obtain a quality education. I respectfully submit that the proposed legislation, designed to correct the problem of loan default may have long term consequences of more serious import than we may be prepared to contemplate. Even the talk of modification in assistance programs sends disquieting signals all along the line.

In our college the prospect of declining financial assistance in 1983-84 has prompted from our student population a flurry of applications for transfers to less costly institutions for the 1982-83 academic year. The freshman enrollment will be 18 percent below normal and upperclass enrollment cannot be firmly set.

We acknowledge that persons who make loans should repay them—this should hold at all levels of our society—and that taking steps to correct abuses is warranted, but at the same time, I respectfully submit that the measures adopted must take due cognizance of the potential consequences. We must make certain that our young people continue to have access to quality education with a reasonable prospect of assistance when there is need. To ignore this obligation is to compromise the quality of our society.

Thank you.

Mr. SIMON. Our final witness on this panel is Guy Goldsmith, the dean of administration of Sullivan Community College, in Loch Sheldrake, N.Y.

Mr. GOLDSMITH. This is Chuck Babcock, we did not have a prepared statement to hand out because we got the information very late, just before we left to come down here. So our dean of students, Chuck Babcock will speak and I will speak briefly.

Mr. SIMON. Charles Babcock, the dean of students.

STATEMENT OF CHARLES BABCOCK, DEAN OF STUDENTS

Mr. BABCOCK. Thank you very much for giving us this opportunity to testify. We will prepare a statement when we get back and send it down here for you.

Let me just give you a few introductory brief remarks. Sullivan County Community College is a small, public community college in rural upstate New York, with an enrollment of about 1,300 full-time students.

The majority of these students are receiving financial aid, approximately 83 percent. Our community college is unusual in that approximately 70 percent of our students do not come from Sullivan County, but rather come from areas outside of that county.

Two-thirds of those out-of-county students come from the Metropolitan New York City area, the five buroughs of New York City, Nassau County, Suffolk County, Westchester County, and so forth.

We have been an open-door college before the term became popular in the State and it became more or less an obligation of the State university system itself.

We pride ourselves on being able to attract to several very successful career programs, students who cannot normally find such programs available. Our hotel technology program and our commercial art program, in particular, draw heavily from these areas.

In 1969, 1970, we started to participate in the national direct student loan program. We made eight loans for a total of about $6,300. Through the conclusion of the 1980–1981 academic year, we had loaned $690,000 to 972 different students.

We are about $120,000 in default. Our default rate for 1980–81 was calculated to be somewhere in the neighborhood of 34 to 37 percent.

This has always concerned us, but we have followed the due-diligence program as specified by the Department of Education over the last few years.

We contract with the Wachovia Billing Service and we use the Management Adjustment Bureau Collection Service. When those efforts fail, we attempt to turn over the uncollected loans to the Federal Government.

Our default rate for the academic year 1982–83 would be below the Government's proposed 25 percent requirement if we could only get the Federal Government to accept the loans that we are trying to turn over to them.

We submitted 195 loans well before the closing date. We received a letter indicating that they were not acceptable for a variety of technical reasons. Valid, but technical.

We then resubmitted them, only to have them come back and say that we cannot accept them again because now you do not have other reasons.

It has been a very frustrating situation for us.

Without the Federal contribution of $42,000 plus our one-ninth share, we estimate that roughly 65 to 100 students will not be able to get NDSL loans at Sullivan County Community College for the 1982–83 academic year.

Since we only have 1,300 full-time students, that could have a significant impact upon us.

At this time, I would like to have Guy Goldsmith continue our testimony.

STATEMENT OF GUY GOLDSMITH, DEAN OF ADMINISTRATION, SULLIVAN COMMUNITY COLLEGE, LOCH SHELDRAKE, N.Y.

Mr. Goldsmith. As this is a kind of shared responsibility between the dean of students' office and the dean of administration's office, which usually does not conflict, at my end of the operation, we have to look at the benefit of the program of the NDSL and weigh it against the disproportionate time and resources that we have to devote to the administration of the program that is serving a relatively small number of our total student body.

We can often be involved with a borrower for a term of 8 years, between the deferrments that they might receive if they continue their education, and going into a 5-year repayment schedule, it can go up to that length of time that we are dealing with a student in a 2-year school.

This year, our administrative allowance that we received from NDSL was only $3,300 and we paid over $8,100 to the Wachovia Billing Service already, and we have a much larger investment in the administration of this program between personnel time from the financial aid office, the registrar's office, our computer center, and other people that are involved in the administration of this program.

We have attempted to do this work ourselves. We started in the spring of 1973 in the loan program and then found that we had to go to a collection agency in 1973-74, as we were not successful in collecting these loans.

In 1976-77, we started with the Wachovia Billing Service because of the workload put upon us as the total loan portfolio grew. We have continued with the billing service in an effort to comply with the diligence requirements and sought and used various collection agencies to try and improve the collection of delinquent accounts over the years that we have been involved.

We are acquiring the services of an additional collection service that we interviewed just last week in an effort to further improve the collections and we are presently working on the reduction of the default rate by trying for a third submission of the loans that were turned back to us.

They were turned back to us the first time by the Office of Education. We cleared up the items that they had rejected the list upon, but then they rejected them a second time with new reasons that were not given to us in the first go-around and here we are dealing with not the new proposed regulations, we were dealing with existing regulations that we have difficulties with.

We are presently going to attempt to get these loans turned over which would reduce our rate to 18 percent within the guidelines that we are dealing with, but we have also been told that even if we reduced the loans at this time, that there would be no further funding available for the 1982-83 year.

We are working now to switch from Wachovia to CUNY to improve our service, we feel that the CUNY Collection Service can do better, but even that has taken a 6-month period and we are still not fully switched over from Wachovia to CUNY at this time.

The institution feels that we have made a good-faith effort to comply with the regulations and that we have been wronged in being dropped from additional funding for the 1982-83 year, and it would appear that it would be a longer period than the 1982-83 year if the regulations are not changed in some way that would allow us to reduce our rate.

Thank you for this opportunity to testify. Any questions, I will be happy to answer them.

Mr. **Simon**. We thank you very much, Dean Goldsmith, and all the witnesses.

[Prepared statement of Guy Goldsmith and Charles Babcock follow:]

Prepared Statement of Guy V. Goldsmith, Dean of Administration, Sullivan County Community College, Loch Sheldrake, N.Y.

The benefit of the N.D.S.L. program to our college must be weighed taking into account the disproportionate time and resources devoted to the administration of a program serving a relatively small number of students. We can often be involved with the borrower for eight years before final payment is collected with deferrment and payment schedules.

This year our administrative allowance was approximately $3,300. We have paid the Wachovia Billing Service over $8,100 and have a large investment in personnel time between our financial aid office, bursar's office, and computer center, in the administration of the N.D.S.L. program.

We attempted to perform the billing and collection effort ourselves up to 1973-1974 when we started using a collection agency; and in 1976-1977 started using the services of Wachovia for billing. We have continued with the billing service in an effort to comply with the due diligence requirements and have sought out and used various collection agencies in an effort to reduce our delinquent accounts. We are acquiring the services of an additional collection service in an effort to further improve our ability to collect N.D.S.L. loans.

One hundred ninety-six loans originating from 1970 through 1978 were submitted to the Office of Education in an attempt to reduce our default rate below 25 percent and were rejected. These loans were resubmitted with the required information and then rejected a second time on new grounds.

We are presently working on a third submission of the one hundred ninety-six loans. The acceptance of these loans would reduce our default rate to 18 percent. We are also trying to improve the billing by working the past six months on changing from Wachovia to the SUNY service.

We feel we have made a good faith effort to comply and that we have been wronged by being dropped from additional funding.

Prepared Statement of Charles E. Babcock, Dean of Students, Sullivan County Community College, Loch Sheldrake, New York

We at Sullivan County Community College appreciate this opportunity to appear before this Subcommittee. Our College is a small, public community college located in a rual area about 100 miles northwest of New York City. We have about 1,300 full-time students, of which between 75 and 85 percent receive some form of financial aid.

Our College is not like the typical public community college. About 70 percent of our students come from areas outside Sullivan County. Most of these come from the metropolitan New York City and surrounding counties. It costs about $5,100 for a typical out-of-county student to attend Sullivan. The NDSL program provides between 65 and 100 students an average loan of $700. The NDSL part of the financial aid package can mean the difference in whether a student comes to Sullivan.

We participated in this high-risk program for the first time in 1969-70. We made 8 loans in the total amount of $6,360. In 1980-81 we made 107 loans in the total amount of $93,290. Through the 1980-81 academic year we made 972 loans in the total amount of $690,537, of which $120,000 is in default.

Based on the new regulations, we will not receive an expected federal capital contribution of $42,000. That amount, together with our capital contribution of $4,000 means that $46,000 of loan money will not be available to lend to needy students.

Our default rate of 34-37 percent is higher than the 25 percent established by the Department of Education. However, previous to this year we have met the "due diligence" requirement and have received funding. Now, it doesn't mater how hard you try to bill and collect, we are still prevented from receiving federal funds.

We use federally recognized billing and collection agencies to meet this "due diligence" requirement of the program. But, what we have not been able to do is turn over sufficient bad loans to the Department of Education which would in turn lower our default rate. We twice submitted 196 defaulted loans to the New York Regional Office. These were not accepted for a variety of reasons. These are technical reasons as far as we can tell and have been frustrated in our attempt to have these defaulted loans accepted by the regional office.

We do not question the intent of the regulation. What we need is more time and assistance to correct our local situation.

Mr. SIMON. Dr. Miller, I am interested in your statement about the overall impact you say has already had a negative impact on Bennett College. You say the combination, together with small Pell grants, SEOG grants, college work study, that this combination, and I quote you, "can potentially destroy us."

Do you want to expand on that? I am interested, what kind of an endowment you have at Bennett College, for example.

Mr. MILLER. The Bennett endowment is approximately $2.2 million.

Mr. SIMON. Which means that you are better than some but still——

Mr. MILLER. But still very——

Mr. SIMON [continuing]. Woefully inadequate.

Mr. MILLER. Yes. And what I intended to project there is a very real problem situation. We are beginning our freshman week even at this moment, and the impact of projected cutbacks that are projected for the 1983-84 year have already sent their signals down to potential students and at this point, our freshman enrollment is off 18 percent, roughly 18 percent.

We have had more inquiries regarding the sending of transcripts in connection with plans to transfer to State and 2-year colleges.

We have had more of that this year, and even back last spring, than we have ever had in my tenure at the institution. All of this is related to the anticipation, and of course, it has been in the press, it is in all types of material, what the projected cutbacks are going to amount to, and this message is getting through to the potential students.

I am certain that our college is just a reflection of what many of these UNCF colleges are experiencing.

Mr. SIMON. While this hearing is not about their Pell grant regulation, if the administration's Pell grant regulation, which would eliminate $1 billion in assistance or eliminate, according to their testimony in response to a question I asked, 700,000 students from Pell grant assistance, if that comes on top of all this, in fact, Bennett College, and a lot of colleges like Bennett College, will be in really serious trouble.

Is that—I don't mean to be putting words in your mouth, but is that an accurate assumption of where we stand?

Mr. MILLER. I would say very profoundly so, sir. We consider ourselves in very, very serious times. And that is putting it mildly.

Mr. SIMON. Let me ask each of the witnesses this question. Some of you touched on this, some of you have not.

One, what was your default rate a year ago, or however you want to measure, I would like to see what kind of improvements you have had, if any, and second, can you describe the student who is now receiving the NDSL assistance.

Dr. Lacy.

Mr. LACY. Very briefly, Mr. Chairman, our default rate in 1979 was 46 percent. We have now reduced it to 33 percent. I have on my desk at this time a paper which our business officer has provided that we might consider turning back to the department which would reduce that rate to 17 percent.

I am not going to send that paper back for reasons that I have indicated in my testimony. I believe that we ought to be trying to collect that paper, that the policy of sending it back is not a particularly good policy anyway.

Our rate is now 33. We have reduced it from 46 and that is a significant reduction.

In our case, the student who is typically receiving this aid at this time, we are an upper-division institution, the student who already has made a diligent effort toward a baccalaureate degree, has already accumulated at least 60 semester hours of academic credit, is a serious student in pursuing that degree, is typically black or from a low-income family, and typically is the first student in that family to be that close to a baccalaureate degree.

Mr. SIMON. I think we will—we unfortunately have another rollcall before we get to the answering of the rest of these questions.

Mr. PEYSER. Mr. Chairman, may I field this for one moment because I am not going to be able to return, but there was one thing that was said by the administrative dean at Sullivan County and that was the regulations and the changes for being in compliance.

I think it would be worthwhile if you could send to this committee, when you return, include in your report just what these regulations change in the things that they are requiring after you had complied once.

I think it would be worthwhile us knowing what they were. Can you do that for us?

Mr. GOLDSMITH. Yes, we would be happy to, because that is one of the problems I want to address here in addition to the proposed regulations. We have difficulties in dealing with the existing regulations as well.

Mr. PEYSER. I am sure that is something shared by many. I want to thank everyone on the panel for their testimony this morning. It certainly is a great help to all of us.

I thank you, Mr. Chairman.

Mr. SIMON. Stand in recess for 10 minutes.

[Recess.]

Mr. SIMON. The subcommittee will resume its hearing.

Dr. Corbie, if we can ask the same question of you.

Mr. CORBIE. I would like to say that 3 years ago, we had a default rate of 46 percent and we are now down to 22 percent.

Dean Angelo Proto, who is the dean of student services, is here with me and I would like him to give you a profile of our students who do receive NDSL loans.

Mr. PROTO. As mentioned in the testimony, we have about 110,000 students receiving all types of aid out of the 170,000 enrolled in the university.

Our percent of students that are dependent are around 60 percent. We have a large independent population, about 40 percent of those receiving aid are independent, so a profile would be more students who are really supplying support for themselves in funding their education at City University.

They are more dependent upon themselves for support. That is a profile of who receives the campus-based programs, more of our independent students, rather than dependent students.

Mostly, as indicated in the testimony, we have about 70 percent of the aid recipients who have incomes of less than $12,000, that is gross income, less than $12,000.

That is the nature of the students.

Mr. **Simon**. If I may focus just a little more on your answer.

Are these students who receive the NDSL loans, are these students who could go to their local community bank to get a loan to stay in college?

Mr. **Proto**. They would be allowed to use the GSL. If we did not have NDSL, we would not have the funds. The only alternative would be the GSL program. We don't have institutional money, we have no endowment, as such, as a public institution, they would have to use the local bank, if you will, local lenders.

They are for the most part students with, as I indicated, low incomes, have their independents with dependents, I mean they do not have a supplemental job while they are going to school. That is basically the population.

Mr. **Simon**. I am not trying to put answers in your mouth, but what you are talking about are students who cannot go to the local—if the GSL—if they cannot get GSL's or they run out of money and they need money, they cannot go to the First National Bank and get a loan.

Mr. **Proto**. They would not have another alternative.

Mr. **Simon**. OK. I thank you.

President Miller.

Mr. **Miller**. I think our highest default——

Mr. **Simon**. We can move that mike over to you there.

Mr. **Miller**. In making an assessment with our Office of Financial Aid, our highest default rate was 29 percent prior to our efforts and this has been brought by the method described to 19 percent.

Our students, as those who have already been described, are generally of a low income, low-economic status. They are in many instances the first persons in their families to pursue college education, many are, in fact, on essentially full financial aid with an assortment of contributions to their education and, in general, they are not persons who could go to the local banks and get a conventional loan for their education and this type of loan assistance is absolutely essential to their education.

Mr. **Simon**. Thank you. I am not sure which Dean Babcock, I guess you are speaking for your school now.

Mr. **Babcock**. OK. In answer to the question, our default rate reached a high of approximately 44 percent in 1978-79, and for 1980-81, the most recent figures that have been calculated is 37 percent.

There has been a slight improvement in that. I do want to again remind this committee that previous to this year we always met the due diligence requirement, either through our own efforts or through the efforts of the Office of Education recognized billing and collection services.

And what is perplexing us at this point is how to get the Federal Government to take over those loans that we cannot successfully collect, even though we are following due diligence.

As far as the profile, the majority of our students who receive NDSL, and it is strictly a package, there is no one who is obviously totally dependent on the NDSL, they range from the majority who are in the low to the lower middle-income class.

We have several who belong to minority groups and for many, it is their first exposure to any form of higher education. The vast majority are not Sullivan County residents, they come from areas out of the county and, again, we cannot predict that they would not come to Sullivan County Community College if this is not reversed, but it would make it extremely difficult for them because, again, we are not a typical community college. It costs roughly $5,100 for a student from New York State to come to our community college, which is a very expensive situation for a community college, primarily because we are not a commuter-type community college, and we do not have dormitories so they have to find very expensive private housing and very expensive eating accommodations.

We just feel that it is going to have a negative impact.

Thank you.

Mr. SIMON. Thank you all.

Let me just summarize, if I may do that, by saying that the pattern that emerges here is one of an improved collection process prior to this regulation being promulgated and that those who are going to be impacted are those who need the most help in our society. I think that is a fair summation of where we are.

We thank you very, very much for your testimony.

Our next panel is Earl Richardson, assistant to the president of the University of Maryland; James Stanley of Phillips Colleges of Gulfport, Miss.; and Leroy Greason, the president of Bowdoin College in Brunswick, Maine.

Mr. Richardson, we will hear from you first.

STATEMENT OF EARL RICHARDSON, ASSISTANT TO THE PRESIDENT, UNIVERSITY OF MARYLAND, COLLEGE PARK

Mr. RICHARDSON. Thank you, Mr. Chairman. I am Earl S. Richardson, assistant to the president of the University of Maryland, Eastern Shore, for the University of Maryland.

Pardon my saying the Eastern Shore. I have been with the Eastern Shore for about 12 years and just recently came to the University of Maryland system.

I am appearing on behalf of our Eastern Shore campus. With the full-time equivalent student enrollment of——

Mr. SIMON. If I could just interrupt, if any of you wish to just enter your statements in the record and summarize them, that is perfectly acceptable, however you wish to proceed.

Mr. RICHARDSON. OK. With the full-time equivalent enrollment of just over 1,000 students, the University of Maryland, Eastern Shore, is the smallest campus of five branches of the University of Maryland.

Yet it has been, and is, one of the top priorities for the University of Maryland board of regents and our president, John Toll. We have sought to get for UMES the kinds of programs, facilities and funding necessary to make it a quality institution attractive to a variety of students from diverse backgrounds.

We have been very successful in our efforts thus far, having established within just 5 years undergraduate programs in computer science, environmental science, physical therapy, construction management technology, special education, poultry science, and hotel/restaurant technology.

At the graduate level, we have implemented master's programs in guidance and counseling, special education and agriculture, and a special universitywide master's and doctoral program in marine, estuarine, and environmental studies.

Of equal importance, we have established an honors program on the campus whereby students are admitted to the University of Maryland Professional Schools of Medicine, Dentisty, Pharmacy and Law, without having to compete with the regular pool of applicants.

These initiatives have made the institution very attractive to a variety of students. However, we are now concerned that recent regulations promulgated by the Department of Education will impact adversely upon the institution's ability to provide the level of financial aid necessary to enroll many of the newly attracted students.

We have calculated in particular that based on the average award of $750, some 132 students will be affected by the decision to cut off funds to all institutions with a default rate of 25 percent or over.

That is the equivalent of approximately one-third of the average freshman class on that campus. Such a decision seems unfair and unreasonable, given the diligence with which that institution has worked to show good faith on its responsibility to collect national direct student loans.

Realizing that it did not have adequate staffing to set up an effective internal billing and collection program, and that it was unlikely that it would get that level of staffing in the near future, the Eastern Shore campus contracted with a commercial billing and collection agency in 1972.

Since that time, we have attempted to educate our borrowers at the time of the loan on their responsibility and obligation for payment.

Just before graduation, we do have, as Bennett has, the exit interview in which we remind the student of his obligation for payment of the NDSL loan.

Within 30 days after graduation, we then turn that profile of that student over to the billing agency, which is Academic Financial Services, and from there, they begin the billing within 30 days of notice saying that, first of all, payment is due, and within 45 days, we send a second notice, and within 60 days, a third notice.

This follows pretty much the regulations established by the department and it goes on until we are at the 2-year period when these loans are turned over to the Department of Education.

Since fiscal year 1978, the default rate at UMES has gone from 52 percent to 35 percent in fiscal year 1981. Though for the fiscal year just ended, the rate increased approximately 3 percentage points. We are not sure as to why we increased this 3 percentage points, however we would suspect that it is probably due in some small part, at least, to the state of the economy at this point.

For the same period, the amount of dollars collected increased 75 percent from $40,000 in fiscal year 1978 to $71,000 in fiscal year 1982.

It is also significant to note that in the spring of this year, the president of the university did a study for the University of Maryland board of regents on the NDSL loan situation at all campuses of the University of Maryland.

At that time, we tried to look at the success of our main campus at the University of Maryland, College Park, and see what we could learn from that for the other campuses.

We explored the alternatives of having a centralized collection agency for the University of Maryland, then we explored the idea of continuing with each campus pursuing the collection of its NDSL loans, and we are also exploring whether or not a combination of these would, in fact, be more effective than what we are doing.

Given this record of progress, we might have appealed our case, however our director of financial aid was a member of the national appeals panel, and it was his informed opinion that given the prevailing mood in the Department of Education, even our achievement profile would not have survived the scrutiny required by the department.

In retrospect, we suspect that it might have been prudent to appeal just for the record. Notwithstanding, we remain optimistic that this committee will have some success in getting the Department of Education to agree to one or a combination of the following:

First, include in the formula for determining eligibility a factor that takes into account significant progress made by the institution in reducing its default rate in any given period.

Second, exclude from the calculation of default, loans older than 5 to 10 years.

Third, delay the effective date of the NDSL directives until 1982-83 for 1983-84 to allow institutions to make the necessary adjustments, and,

Fourth, allow institutions the flexibility to use a portion of the funds collected to augment the staffs involved with the billing and collection program.

At the Eastern Shore campus, one of our problems has been, in particular, that we have not had large enough staff to take care of the workload associated with billing and collection.

We think that if we were given the flexibility to use some of those dollars to actually augment the staff in terms of personnel and computer equipment, then we may be able to further our cause.

In closing, Mr. Chairman, I would like to thank you for the opportunity to appear before your committee and I sincerely hope that your committee will be able to assist the University of Maryland in its efforts to get the Department of Education to grant some reprieve for the University of Maryland, Eastern Shore.

[Prepared statement of Earl Richardson follows:]

PREPARED STATEMENT OF EARL S. RICHARDSON, ASSISTANT TO THE PRESIDENT, UNIVERSITY OF MARYLAND, COLLEGE PARK, MD.

I am Earl S. Richardson, Assistant to the President of the University of Maryland System, appearing on behalf of our University Campus on the Eastern Shore. With a full-time equivalent enrollment of just over a thousand students, the University of Maryland Eastern Shore is the smallest of our five branch campuses. The student body is approximately 75 percent black. During the last five years in particular, the University of Maryland President and Board of Regents have sought to get for UMES, the kinds of programs, facilities and funding necessary to make it a quality institution, attractive to a variety of students from diverse backgrounds. We have been very successful in our efforts thus far; having established, in this short period, undergraduate programs in computer science, environmental science, physical therapy, construction management technology, special education, poultry management technology, and hotel management technology. At the graduate level we have implemented master's programs in guidance and counseling, special education and agriculture; and a master's and doctoral program in marine estuarine and environmental studies. Of equal importance, we have established an honors program on the campus whereby students are admitted to the University of Maryland Professional Schools of Medicine, Dentistry, Pharmacy, and Law without having to compete with the regular pool of applicants. These initiatives have made the institution very appealing to a wide variety of students; however, we are now concerned that recent regulations promulgated by the Department of Education will have serious impact upon the institution's ability to provide the level of financial aid necessary to enroll many of the newly-attracted students. We have calculated in particular, that based on an average award of $750, some 132 students will be affected by the decision to cut off funds to all institutions with a default rate of 25 percent or over. That is equivalent to approximately one-third of the average freshman class at that campus. Such a decision seems unfair and unreasonable given the diligence with which that institution has worked to show good faith on its responsibility to collect NDSL loans.

Early on, the institution realized that it did not have the resources to establish an effective internal billing and collection program, and in 1972, it contracted with a commercial billing agency (Academic Financial Services). With this assistance, the default rate at UMES went from 52 percent in fiscal year 1978 to 35 percent in fiscal year 1981. There was a 3 percent increase in the default rate for fiscal year 1982. For the same period, the amount of dollars collected increased 75 percent (from $40,000 to $71,000).

Determined to improve even more on the NDSL default rate, the Board of Regents requested in early Spring of this year, that the President explore ways by which the University might assist UMES in its efforts at collection. Some of the options considered were: to establish a centralized billing and collection office for the University at the College Park campus system; (2) to continue use of the commercial billing service now in place at UMES; or (3) to develop appropriate staffing on the campus to perform the billing and collection functions. Because of funding necessary to establish either a centralized system or an enlarged campus staff, it was determined that we would continue, for at least the short-term, with the commercial billing agency at UMES. It is important to emphasize, however, that the Board of Regents is committed to assisting UMES, as well as other campuses of the University of Maryland, in further reducing its default rate, even in those instances where the default rate is already below the cut-off level of 25 percent.

The Eastern Shore campus has also undertaken to better advise new students as to the nature of their obligation in taking NDSL loans, and just before graduation, to remind those students of their responsibility to begin payment upon receipt of notice from the billing agency. The campus also makes every effort to transfer students loan records to the billing agency within thirty days after students graduate, though we sometimes experience difficulty because of the lack of adequate staffing.

Given these "due diligence" efforts, we might have appealed the decision to cut-off funds to UMES. However, the Director of Financial Aid at UMES was a member of the appeals panel, and because of the prevailing mood in the Education Department, it was his informed opinion that UMES would not have survived an appeal. In retrospect, we suspect that it might have been prudent to have appealed at least for the record. Notwithstanding, we remain optimistic that this Committee will have some success in getting the Department of Education to consider the following:

(A) Include in the formula for determining eligibility a factor that takes into account significant progress made by the institution in reducing its default rate. Though an institution may have a default rate of 25 percent or more, if for any given year the institution shows reasonable progress, that institution should be eligible for new funds.

(B) Exclude from the calculation of default, loans older than five to ten years. Many of our outstanding loans go back as far as ten to fifteen years, sometimes for students who never graduated.

(C) Delay the effective date of the new NDSL directives until 1983-84, during which time these changes can be considered.

(D) Allow institutions the flexibility to use a portion of funds collected to augment the staff involved with the collection program. (Personnel and computer equipment.)

In closing, Mr. Chairman, I would like to thank you for the opportunity to appear before your Committee, and I sincerely hope that your Committee will be able to assist the University of Maryland in its efforts to get the Department of Education to grant some reprieve for the University of Maryland, Eastern Shore.

Mr. SIMON. Thank you.

Our next witness, James Stanley, of Phillips Colleges of Gulfport, Miss.

STATEMENT OF JAMES STANLEY, PHILLIPS COLLEGES, INC., GULFPORT, MISS., ACCOMPANIED BY RICHARD FULTON, ESQ.

Mr. STANLEY. Thank you, Mr. Chairman. I am James R. Stanley, director of student financial assistance for Phillips Colleges.

I would like to submit written testimony to you and just speak briely to a few points that I think are very important.

Mr. SIMON. Your written testimony will be entered in the record.

Mr. STANLEY. Thank you very much.

Our major problem is a serious omission in the new regulations, the final regulations, which are not yet in effect, and that omission is that for the first time since the NDSL program, there is no measurement of what kind of progress an institution makes within the academic year.

It puts us in a position where we could have an institution who had a 10-percent default rate, goes up to 24 percent, and would be eligible for funding, where we have another school that has a 45-percent default rate, let's say, goes down to 26, and is not eligible.

It appears to me that the school who went down to 26 is certainly showing better due diligence than the one who went up to 24.

I would like to say on the onset that Phillips Colleges supports an NDSL regulation which will do three things:

First, stimulate institutions to cut their default rates;

Second, reward the successful efforts of those institutions who do cut default rates, and

Third, measure institutional performance by an objective and quantitative standard.

Unfortunately, the new regs do not do any of these things. That is why I feel we need a delay.

Mr. SIMON. May I interrupt just simply to ask—and forgive me for not knowing Phillips Colleges, are you a proprietary institution or what is the——

Mr. STANLEY. We are a group of taxpaying institutions.

Mr. SIMON. All right.

Mr. STANLEY. We have, Mr. Chairman, about 7,000 students who are eligible for financial assistance and we have schools in seven different States.

As director of student aid, I am responsible for the student assistance programs in all of our schools in all of the States.

I have attached in my written report a 5-year history of our NDSL default rate through June 30, 1982. I think, as we look over these, you will see the rate of progress that we have made in the decline of default rates, we have four of our schools which in the past year did have a rate of decline of more than 25 percent, two others which had a rate of decline of more than 16 percent.

One of the things that you will notice is that in 1981, our default rates began to decrease much more than they had in the previous 3 years. That is because we made some changes in our billing procedures and our collection procedures, and we are very pleased with what we have seen on that.

I think it would be good to compare the regulations, the old regulations and the new regulations, side-by-side, and see what kinds of things they put out.

By that, you could tell that an objective and quantitative test of rate of success is now missing, which was in there before. This is on page 4 of the written testimony.

One of the big problems that we have is that there is an impact not only on national direct student loans, but also on our other financial assistance programs.

One of my major concerns is the impact that this could have, these regulations, could have on the guaranteed student loan program. Access to this program is threatened literally because of national publicity which has been given by the Department of Education.

I have a grave fear that lenders in banks will have concerns about working with schools who are on this cutoff list that the department put out.

As a matter of fact, we had the Mississippi Guaranty Student Loan Agency call my office and tell me that they had gotten calls from two banks who loan to our students in the guaranteed student loan program, and they were concerned as to whether or not it would be good business practice to continue to loan students guaranteed student loan money if we were having problems with national direct student loans.

By the way, those schools that they were referring to are two of the schools that had default rates which declined in excess of 16 percent during the past year, and so it really hurt us doubly in that.

Our problem in Mississippi is particularly acute because we are having a lot of problems getting the secondary market in place. As you know, the bond market has not been very good lately, and they are not able to sell the $55 million in bonds that they need to start a secondary market.

This leaves Phillips Colleges holding $1.2 million in paper that we cannot turn around and sell and then get that money back to our students, which we would like to do.

We would like to make some deals with the Student Loan Marketing Association and we are talking with them now, but they are reluctant to work with us because our loan portfolio has an average level of indebtedness less than the $4,800 which they like to see.

Interestingly, vocational and technical schools usually have an average of somewhere around the $2,500 mark since we are 2-year schools.

In terms of our student profile, in our schools I have listed on page six of the testimony, the number of the percentage of students, independent and dependent, in each school which has total income of less than $15,000.

Cumulatively, these come to—they range from 81 percent in one school to 92 percent in another school, and the average is about 86 percent of our students have incomes below $15,000.

I would also like to submit to the committee a formal comment which the Association of Independent Colleges and Schools, to which we belong, filed on Feburary 22, 1982, and the supplement that they filed on March 9.

I would like to ask that these copies be entered into the record.

Mr. SIMON. They will be entered in the record.

Mr. STANLEY. Thank you.

[Prepared statement of James Stanley follows:]

PREPARED STATEMENT OF JAMES R. STANLEY, DIRECTOR OF STUDENT FINANCIAL ASSISTANCE, PHILLIPS COLLEGES, GULFPORT, MISS.

Mr. Chairman and Members of the Subcommittee:

My name is James R. Stanley. I am Director of Student Financial Assistance for Phillips Colleges, Gulfport, Mississippi. Thank you for the opportunity to appear today and to discuss with you the impact of a serious omission in the Final Regulations of the National Direct Student Loan (NDSL) program issued by the Department of Education (ED) which were published in the Federal Register of August 2, 1982.

The refusal of ED to carry forward into the new regulations from the old any recognition of the demonstrable rate of progress of an institution in cutting default rates destroys institutional administrative incentive and deprives students, largely poor and disadvantaged, of needed NDSL Federal Capital Contributions (FCC) necessary to student aid. The new regulations no longer permit continued institutional access to the NDSL FCC when there has been a decline in the default rate "by at least 25% percent during the base year" (Sec. 674.6a(a)(2) of prior regulations). This omission is a serious problem!

At the outset let me affirm the support of Phillips Colleges for an NDSL regulation which will:

1. Stimulate institutions to cut NDSL default rates,
2. Reward the successful efforts of those institutions who do cut default rates, and,
3. Measure institutional performance by an objective quantitative standard.

Unfortunately, the new Final Regulations do none of the above. In fact, ED would in some cases actually reward institutions with increasing default rates. We think this is wrong; that the Congress should tell ED that the new final regulations should be amended; and that the implementation be delayed until this omission is rectified.

Briefly by way of background, Phillips Colleges is a system of educational institutions in seven states with a total enrollment of slightly more than 7,000 students eligible for Financial Aid participation. My own professional experience in student financial aid administration includes service as Director of Financial Aid to St. Andrews Presbyterian College (1978-1981) and Methodist College (1975-1978) in North Carolina. I have served as President of the North Carolina Association of Student Financial Aid Administrators (NCASFAA); Chairman of the Financial Aid Advisory Committee of the North Carolina Association of Independent Colleges and Universities. I have taught workshops in student aid for both the Office of Student Financial Assistance of the Department of Education and for the Southern Association of Student Financial Aid Administrators (SASFAA). I have also served on the SASFAA Executive Board. Currently I am on the SASFAA Professional Advancement Committee.

As Director of Student Financial Aid I am responsible for the schools in the Phillips system. Attached as Exhibit A is the 5 year default rate history report of our schools through June 30, 1982. As you can see, our rate of progress in cutting defaults has been substantial. In fact, in four schools the rate of progress in the decline in default rates exceeds 25% within the past fiscal year. Two others have exceeded 16% in rate of decline. Despite this demonstrable progress ED regulations penalize our efforts. This is unfair and should be amended.

We believe this information fairly and credibily demonstrates the efforts we have made and the success we have experienced in reducing NDSL defaults. Instead of being encouraged we find ED interested only in the level of defaults rather than the progress in the rate of decline. In other words, institutions could have an increase in default rates but still receive the NDSL FCC. On the other hand, Phillips Colleges will suffer a loss of NDSL FCC of over one million dollars depriving NDSL loans to some 650 low income or disadvantaged students despite a decline of at least 25% in default rate.

REGULATIONS COMPARED: OLD AND NEW

A side-by-side comparison of the old and new version of 674.6a(a) of the NDSL FCC Funding Procedure illustrates the impact of not permitting our institutions to demonstrate progress in cutting default. This is a separate factor from the subjective judgment of what may or may not constitute "due diligence". We are only talking about an objective quantitative test of rate of success in cutting defaults. The old regulations recognized standard of progress; the new ones do not.

OLD	NEW
§ 674.6a Funding procedure—Federal capital contributions (FCC). (a) For any year, an institution receives Federal capital contribution if its default rate— (1) Is 10 percent or less; → (2) Is more than 10 percent, but has declined by at least 25 percent during the base year; or (3) Is more than 10 percent but the institution demonstrates that it exercised due diligence according to the provisions of Subpart C during the base year and is currently exercising due diligence.	**§ 674.6a Funding procedure—Federal capital contributions (FCC).** (a) For any year, an institution may receive a Federal capital contribution (FCC) if its default rate is not more than 25 percent.

IMPACT ON GSL ALSO

Access to the Guaranteed Student Loan (GSL) Program is also threatened. Because of the national publicity in the NY TIMES, (7-29-82, page D18) and the listing of institutions losing NDSL funds in Higher Education Daily (8-4-82). We fear State Guaranty Agencies ("SGA") and banks are becoming at best uneasy about working with schools on the NDSL cut-off list for future GSL aid. In fact, the Mississippi State Guaranty Agency called me at the request of two Mississippi GSL lender banks conveying grave concern as to whether or not it would be a good business practice to continue GSL loans to students attending our Gulfport and Jackson campuses because of media coverage of NDSL cut-off. As can be seen on Exhibit A, the decline in the rate of defaults for Gulfport is 25.42% and for Jackson 16.32%. Despite our efforts and demonstrated success, the impact of the new regulations extend beyond NDSL and now may also jeopardize the GSL.

The GSL problem in Mississippi is particularly acute because the attempts of the State to establish a Secondary Market have been stalled. The State cannot sell the necessary $55 million in bonds to finance the Secondary Market. Meanwhile Phillips Colleges, as an eligible lender, is holding $1.2 million in GSL notes which it is unable to sell at this time. Unfortunately, the Student Loan Marketing Association ("Salle Mae") is reluctant to purchase a loan portfolio with an average level of indebtedness of less than about $4,800. Vocational and technical students seldom borrow more than $2,500.

STUDENT PROFILE

The Phillips College system is geared to help low income, economically disadvantaged students to secure an education which will enable them to find gainful employment upon graduation. Based on the 1981 data we have filed with ED in the annual FISAP report, we feel the income levels of students in Phillips College illustrated how important the NDSL is.

School	% of students (dep. & indep.) below $15,000.
Phillips College - Atlanta	82%
Atlanta College of Medical and Dental Careers	81%
Phillips College -Augusta	83%
Blair Jr. College	92%
Phillips College - Gulfport	91%
Phillips College - Jackson	86%
Louisville College of Medical and Dental Careers	78%
Phillips COllege - New Orleans	81%
Oklahoma School of Business	88%

FORMAL COMMENT ON REGULATIONS

Earlier this year the educational association to which we belong, the Association of Independent Colleges and Schools ("AICS") filed a formal comment (February 22, 1982) with a supplement (March 9, 1982). We would ask that copies of these documents be entered into the record and made a part of this hearing.

APPEAL EFFORTS

In processing our appeal to ED we were faced with an unusual legal dilemma. ED required schools to phrase appeals within the rules of proposed rather than existing regulations. By every rule of administrative law an existing regulation has the force of law until replaced. Yet ED instructed us to limit our appeal to the terms of a proposed regulation which was not "final" and which is still not "effective".

To protect our legal position we filed appeals on all schools showing under the existing regulation that we either had a rate of decline of defaults in excess of 25% (subsec.(a)(2)) or had demonstrated "due diligence" (subsec. (a)(3)) or both. ED ignored these appeals and the existing regulations authorizing choosing to operate on proprosed regulations instead. Such action in our opinion demonstrates that ED was and is unalterably committed to implementing without amendment the proposed regulations of January 7, 1982. Such a course of action also makes a mockery of the administrative law process and publication with request for comment. Nonetheless for the record we filed appeals based on the then-existing regulations which were denied on the basis of proposed regulations. In other words the whole process is illusory and in violation of the spirit and the letter of our administrative law system.

TIMING IS NO LONGER THE PROBLEM

Had ED timely, however unfairly, implemented the regulations proposed last January their current case for instant Congressional acquiesence might have some merit. The facts are that ED dallied beyond the beginning of the student financial aid year, July 1, 1982, before publishing the "final" regulations. The "final" regulations might not be effective well into October because of the 45 day rule. Meanwhile schools and students are adjusting to letter of "interim final" awards for NDSL and other campus programs. THe simple solution is to delay these "final" regulations for at least one year. Hopefully during that time they can be amended.

SUMMARY

We urge the Committee to bear in mind the following points:

1. The rate or standard of progress of an institution in cutting default rates should be a deciding factor in measuring continued eligibility for NDSL capital contribution. The ED new regulations completely disregard effort and success in cutting default rates.

2. The responsibility for the delay in publishing these "final" regulations is solely that of the Department of Education and not that of the schools or Congress. Therefore they should be further delayed until at least the 1983-84 academic year. During this time we hope they will be amended.

3. We urge Congress to support NDSL regulations which will:
   - (a) stimulate institutions to reduce NDSL default rates.
   - (b) reward the successful efforts of such institutions which evidence progress.
   - (c) measure institutional performance by an objective quantitative standard.

4. Because the present "final" regulations do none of the above they should not be allowed to become effective without amendment.

CONCLUSION

I appreciate the opportunity to share with the Committee the objective data and facts of the administration of student financial aid by Phillips Colleges. We hope that it will assist you in delaying or amending these unfair final regulations published by Department of Education. We urge that revised regulations first recognize a standard of progress in cutting defaults rather than reliance upon the arbitrary benchmark level of 25% default ratio.

Thank you for the opportunity to meet with you today. I will be happy to attempt to answer any questions you might have.

Respectfully submitted,

James R. Stanley
Director, Student Financial
Assistance
Phillips College, Gulfport,
Mississippi

PHILLIPS COLLEGES
DEFAULT RATE HISTORY REPORT

AUGUST 16, 1982

School	State	Conversion to FAME	Official 6/30/78	Official 6/30/79	Official 6/30/80	Official 6/30/81	As of* 6/30/82	Comparison of 6/30/81 vs. 6/30/82		Default Rate If All Assignments Previousl Sent to School Are Accepted
								Diff. - or +	% Change	
ACM	GA	12/01/81	27.28	28.81	24.11	18.88	17.20	- 1.68	- 8.90	16.60
BLA	CO	8/01/81		9.32	9.44	16.38	13.64	- 2.74	-16.73	10.31
EDM	TN	12/01/81	50.59	27.88	31.99	47.93	50.31	+ 2.38	+ 4.97	50.04
LCM	KY	12/01/81	-	-0-	11.66	14.96	18.70	+ 3.74	+25.00	18.33
OKL	OK	8/01/81	-	-	-	-0-	19.11	+19.11	-	19.11
PHI(AT)	GA	12/01/81	22.96	26.07	33.77	24.97	25.97	+ 1.00	+ 4.00	19.99
PHI(A)	GA	8/01/81	29.96	33.48	40.30	34.91	21.96	-12.95	-37.10	23.70
PHI(C)	GA	8/01/81	40.10	39.76	47.52	44.94	28.45	-16.49	-36.69	12.17
PHI(GU)	MS	8/01/81	43.66	N/A	41.43	42.80	31.92	-10.88	-25.42	29.14
PHI(J)	MS	8/01/81	32.56	31.83	42.07	42.41	35.49	- 6.92	-16.32	29.50
PHI(NO)	LA	8/01/81	26.37	24.38	25.61	29.24	19.90	- 9.34	-31.94	14.34

* This rate will reduce as assignments previously submitted to ED are accepted.

HIGHER EDUCATION DAILY

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ED ISSUES RULES TO CUT OFF NEW NDSL AID TO HIGH-DEFAULT SCHOOLS

Black colleges and proprietary schools were hit hardest by rules issued this week to keep schools with high default rates from getting new National Direct Student Loan (NDSL) money.

But Education Department officials deny the rules will have a great impact on students at the institutions, and at least some higher education officials agree.

The final regulations ED issued Monday would end new NDSL funds for the 1982-83 school year at 438 schools with NDSL default rates of more than 25 percent and reduce funds for about 800 others with NDSL default rates from 10 percent to 25 percent. Some 1,600 schools with NDSL default rates of less than 10 percent will thus get a larger share of the $179 million ED has to distribute for the coming school year.

None There Before The rules will not hurt the 42 historically black colleges on the list more this year than last because many of the schools did not get new NDSL funds last year either, said James Moore, ED's director of student financial aid programs. "We're not taking a whole lot of federal capital out of the historically black colleges, because the money wasn't there to begin with," Moore said.

Private, for-profit institutions get so little NDSL money that the cutoff will not greatly affect them, said Mary Wine, professional relations director for the Association of Independent Schools and Colleges, which represents some 550 business schools. About 65 percent of the schools with defaults of more than 25 percent are proprietary, according to ED.

Other Aid The nation's more than 100 historically black colleges rely mostly on $140 million in Pell Grants to help their students, Moore said. The amount of NDSL money the schools will lose is small compared to the funds they get from other aid programs, including College Work-Study and Supplemental Grants, he said.

As he glanced down the list of schools barred from getting new money, Moore said only about three of the 24 black colleges that caught his eye had gotten new federal capital contributions last year. Last year, schools with default rates of more than 10 percent were penalized, but many schools did not lose any money because ED allowed them to show they had either significantly reduced their default rate or did all they could to collect the unpaid loans.

Under the new rules, schools cut off from new NDSL funds or slated for reduced shares can still make the loans out of their revolving fund of loans repaid by other students. The loans carry a 5 percent interest rate.

But at least one United Negro College Fund (UNCF) official said the group's 42 member schools would suffer because almost 18 percent of the 50,000 students enrolled in the the colleges get NDSLs. Niles White, UNCF government affairs director, said ED's

(more)

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[illegible]

ED ISSUES RULES TO CUT OFF NEW NDSL AID TO HIGH-DEFAULT SCHOOLS (Cont.)

rules are a "tremendous blow to students attending our schools as well as the institutions."

Eight UNCF schools are slated to get new funds for this fall, down from nine last year, he said. And the slice of the NDSL pie that UNCF schools will get this coming year, 0.63 percent, is about the same as last year.

(more on p. 6)

SCHOOLS BARRED FROM GETTING NEW FEDERAL CAPITAL CONTRIBUTIONS UNDER THE NATIONAL DIRECT STUDENT LOAN PROGRAM

(1982-83 School Year)

ALABAMA: Alabama State University-Montgomery; Selma University-Selma; Stillman College-Tuscaloosa; Talladega College-Talladega; 20th Century College-Mobile.

ALASKA: University of Alaska-Anchorage, Juneau.

ARIZONA: Advanced Beauty College-Tucson; Advanced Beauty College-Golf Links-Tucson; Advanced Beauty School North-Tucson; Arizona Academy of Beauty South-Tucson; Arizona College Medical, Dental & Legal Careers-Tucson; Beebes Academy of Beauty Culture-Yuma; Central Arizona College-Coolidge; Glendale Community College-Glendale; International ACD of Beauty Culture-Scottsdale; Long Medical Institute-Phoenix; Maricopa Technical Community College-Phoenix; Mesa Community College-Mesa; Phoenix Academy of Beauty-Maryvale-Phoenix; The Refrigeration School-Phoenix; Tucson Beauty College-Tucson.

ARKANSAS: Garland Co. Community College-Hot Springs; Mississippi County Community College-Blytheville; North Arkansas Community College-Harrison.

CALIFORNIA: ABC Colleges Inc.-Fresno; American Beauty College-Bellflower; Americana Beauty Academy-San Leandro; Artist's Beauty College-Sacramento; Associated Technical College-Los Angeles; Bauder College Specializing in Career Ed-Sacramento; Bay-Valley Technical Institute-Santa Clara; California College of Dental Training-Los Angeles; California Hair Design-San Diego; California Paramedical & Technical College-Long Beach; California Trade & Technical School Inc.-Long Beach; California Western School of Law-San Diego; Canyon Country Beauty College-Canyon Country; Career College of Hairstyling-Marysville; Carmichael Beauty College-Carmichael; Chaffey Community College-Alto Loma; City College of San Francisco-San Francisco; College of Alameda-Alameda; Compton Beauty College-Compton; Contempo School of Beauty-Inglewood; Continental Beauty School-Los Angeles; Country Club College of Hairstyling-Sacramento; Covina Beauty College-Covina; Crenshaw Beauty College-Los Angeles; Criss Business College-Anaheim; Dalene's College of Beauty-Fresno; Deloux Schools of Cosmetology-La Mesa; Fairfield Beauty Academy-Fairfield; Feather River College-Quincy; Federico Fair Oaks College of Hairstyling-Fair Oaks; Flavio Beauty College-Torrance; Ganaye Academy of Cosmetology-Redwood City; Grace Beauty School-Anaheim; Indian Valley College-Novato; John Pal Beauty College-Torrance; Kay Brown Beauty School-Los Angeles; Lakewood Beauty College-Lakewood; Lancaster Beauty School-Lancaster; Laurel Beauty Academy-North Hollywood; Lawton School of Medical and Dental Assts.-Palo Alto; Le Pante Beauty College-La Mirada; Liemert Park Beauty College-Los Angeles; Lodi Beauty College-Lodi; Long Beach College of Business-Long Beach; Los Angeles City College-Los Angeles; Los Angeles Community College District East Los Angeles College-Monterey Park; Los Angeles Harbor College-Wilmington; Los Angeles Southwest College-Los Angeles; Los Angeles Trade Technical College-Los Angeles; Los Rios Community College District-Sacramento; Marlo College-San Diego; Mendocino-Lake Community College District-Ukiah; Merritt Universal Beauty Academy-Oakland; Mountain View Beauty College-Mountain View; Mr. Dominics School of Hair Design-Whittier; Napa Beauty College-Napa; National Technical Schools-Los Angeles; New College of California-San Francisco; Newberry School of Beauty-North Hollywood, Burbank, Canoga Park, Covina, Hollywood Panorama City; North Adrian's Beauty College-Modesto; North Park Beauty College-San Diego; Paris Beauty College-Concord; Pasadena Area Community College District-Pasadena; Randys Beauty College-Redding; Richards Beauty College-San Bernadino; Rio Hondo College-Whittier; Ron Bailie School of Broadcast-San Jose; Sacramento Beauty College-Sacramento; Salinas Beauty College Inc.-Salinas; San Diego College for Medical & Dental Assts.-San Diego; San Diego City College-San Diego; San Diego Mesa College-San Diego; Santa Barbara Beauty College-Santa Barbara; Santa Cruz Beauty College-Santa Cruz; Sawyer College at Pomona-Pomona; Sawyer College of Business-Pasadena; Southland College of Med-Dent-Leg Care-Los Angeles; Southwestern College-Chula Vista; The Bryman Schools Inc.-Long Beach; Touch of Beauty College-Mission Viejo; Ukiah Beauty College-Ukiah; Universal Beauty Academy-Walnut Creek; Universal College of Beauty-Los Angeles; Valley Commercial College-Modesto; Victor Valley Beauty College-Victorville; Waynes College of Beauty-Santa Cruz; Weslyn College of Medical and Dental Care-Bellflower; Westgate Beauty College-San Jose; 20th Century Academy of Cosmetology-Livermore.

COLORADO: Arapahoe Community College-Littleton; Certified Welding School Inc.-Denver; Colorado Aero-Tech-Broomfield; Lavonne's Academy of Beauty-Arvada, Denver, Thornton; Olympic Beauty Academy Inc.-Colorado Springs; Southern Colo. Univ. of Cosmetology-Pueblo.

CONNECTICUT: Amore Institute of Hair Design Inc.-West Haven; Greater Hartford Community College-Hartford; Housatonic Community College-Bridgeport; Mattatuck Community College-Waterbury; Middlesex Community College-Middletown; Mohegan Community College-Norwich; South Central Community College-New Haven; Tunxis Community College-Farmington.

DELAWARE: Delaware Tech and Cmty. College-Georgetown, Dover; Wilmington College-New Castle.

DISTRICT OF COLUMBIA: Georgetown School of Science & Art; Southeastern University; Washington School for Secretaries.

(more)

FLORIDA: Betz Business College Inc.-Tampa; Brevard Community College-Cocoa; Charron Williams College-Miami; College of Boca Raton-Boca Raton;Daytona Beach Community College-Daytona Beach; Edward Waters College-Jacksonville; Florida A & M University-Tallahassee; Florida International University-Miami; Florida Jr. College at Jacksonville-Jacksonville; Garces Commercial College-Miami; Miami-Dade Cmty. College-Miami; Southern College Inc.-Orlando.

GEORGIA: Albany State College-Albany; Atlanta University-Atlanta; Branell Womens College-Atlanta; Interdenominational Theological Ctr.-Atlanta; Meadows College of Business-Columbus, Albany; Morehouse College-Atlanta; Morris Brown College-Atlanta; Phillips College Inc.-Columbus; Rutledge College-Atlanta; Savannah State College-Savannah; Spelman College-Atlanta.

HAWAII: West Oahu College, Univ. of Hawaii-Pearl City; Windward Cmty. College-Kaneohe.

ILLINOIS: Academy of Beauty Culture-Belleville; Alberto's Institute of Cosmetology-Rockford; Allied Institute of Technology-Chicago; Bloomington Academy of Beauty Culture-Bloomington; Catherine College-Chicago; Chicago State University-Chicago; City College of Chicago-Chicago; Coiffure School of Beauty Culture-Belleville; Control Data Institute-Chicago; Debbie's School of Beauty Culture-Chicago, Harvey; Governors State University-Park Forest South; Ippolito School of Cosmetology-Chicago; John & Louis Beauty College-Aurora; Lake Victoria Beauty Academy-Springfield; Lincoln Land Community College-Springfield; Lincoln Trail College Ill. Eastern Cmty Colleges-Olney; McKendree College-Lebanon; National College of Education Chicago; Oakton Community College-Des Plaines; Sangamon State University-Springfield; Sawyer School-Oak Park; Tom Nolan Academy of Beauty Culture-Decatur; Tri County Beauty Academy-Litchfield; Wilfred Academy of Hair and Beauty Culture-Oak Park, Des Plaines.

INDIANA: Calumet College-Hammond; Interstate Technical Institute-Fort Wayne; Vincennes Beauty College-Vincennes.

IOWA: American Institute of Commerce-Bettendorf; Stewart School of Hairstyling-Council Bluffs; United Electronics Inst-West Des Moines.

KANSAS: Climate Control Inst-Wichita; Elect Computer Programming Inst-Topeka, Wichita; Wichita Business College Inc-Wichita.

KENTUCKY: Bowling Green Business College Inc-Bowling Green; Fugazzi Business College-Lexington; Kentucky Business College-Lexington; Kentucky State University-Frankfort; Louisville School of Art-Louisville; Mr. John's School of Beauty-Louisville.

LOUISIANA: Delta School of Commerce-Alexandria; Draughon Business College-Shreveport; Louisiana Business College-Monroe; Louisiana School of Professions-Shreveport; Meadows-Draughons College-New Orleans; Phillips College Inc. of New Orleans-New Orleans; Spencer College-Baton Rouge.

MARYLAND: Airco Technical Institute-Baltimore; Bowie State College-Bowie; Catonsville Community College-Catonsville; Community College of Baltimore-Baltimore; Coppin State College-Baltimore; Essex Community College-Baltimore; Hagerstown Jr. College-Hagerstown; Maryland Institute College of Art-Baltimore; Ruesing University of Beauty-Maplewood; University of Maryland-Eastern Shore-Princess Ann.

MASSACHUSETTS: Associated Tech Inst-Woburn; Boston State College-Boston; Bunker Hill Community College- Charlestown; Central New England College of Tech-Worcester; East Coast Aero-Technical School-Lexington; ITT Technical Institute-Chelsea; Massasoit Community College-Brockton; Newbury Jr College-Boston; Northern Essex Community College-Haverhill; Springfield Technical Community Col-Springfield; Swain School of Design-New Bedford.

MICHIGAN: Delta College-University Center; Detroit Business Institute-Detroit; Detroit Institute of Commerce-Detroit; Krainz Woods Acdmy Med Labtory Tech-Detroit; Lewis College of Business-Detroit; Mich Paraprofessional Trng Inst-Southfield; Michigan Tech Inst-Ann Arbor; Saginaw Valley State College-University Center; Shaw College at Detroit-Detroit; State College of Beauty-Bloomfield, Ann Arbor, Royal Oak; Washtenaw Community College-Ann Arbor.

MINNESOTA: Minneapolis Community College-Minneapolis.

MISSISSIPPI: Coahoma Jr College-Clarksdale; Draughon Business College-Jackson; Jackson State University-Jackson; Mary Holmes College-West Point; Northwest Mississippi Junior Col-Senatobia; Phillips College Inc-Jackson, Gulfport; Rust College-Holly Springs; Tougaloo College-Tougaloo.

MISSOURI: Bailey Technical School-St. Louis; Control Data Institute-St. Louis; Draughon Business College-Springfield; Draughons Business College of St. Louis Inc-St. Louis; Elect Computer Programming Inst-Kansas City; Platt College-St. Joseph; Rolla College of Hairstyling-Rolla; Vocational Training Center-St. Louis.

MONTANA: Miles Community College-Miles City.

NEBRASKA: College of Hair Design-Cosmetology Div and Barber Div-Lincoln; Nebraska College of Business-Omaha; Stewart School of Hairstyling-Omaha.

NEVADA: Academy of Hair Design-Las Vegas; American Acad for Med Assistants-Las Vegas; Clark County Community College-Las Vegas; Education Dynamics Inst-Las Vegas.

NEW JERSEY: Empire Technical Schools of NJ Inc-East Orange; Essex College of Business-Newark; Essex County College-Newark; Glassboro State College-Glassboro; Jersey City State College-Jersey City; Joseph Paterno Col of Beauty Culture-Dover; Kean College of New Jersey-Union; Plaza School-Paramus; Robert Walsh Business School-Union; Sawyer School-Clifton, Elizabeth; School of Business Machines-Jersey City.

(more)

NEW MEXICO: Vo-Tech Institute Inc-Albuquerque.

NEW YORK: Adelphi Business School-Brooklyn; Advanced Career Training-New York; Apex Technical School-New York; Cazenovia College-Cazenovia; Control Data Institute-New York; Eastern School for Physicians Aides-New York; Elizabeth Seton College-Yonkers; Empire Technical School-New York, Hempstead; French Fashion Academy-New York; Friends World College-Huntington; Hair Design Institute at Livingston Street-Brooklyn; Heffley & Browne Secretarial School-Brooklyn; Long Island Beauty School Inc-Hempstead; Midway Beauty School-Forest Hills; Midway-Paris Beauty School-Bronx; New York Business School-New York; New York Food and Hotel Management School-New York; Niagara Hair Styling & Bty Culture Inc-Niagara Falls; Programming and Systems Institute-New York; Robert Fiance Hair Design Institute-Flushing; Saint Francis College-Brooklyn; Sawyer Business School-Buffalo; Sullivan County Community College-Loch Sheldrake; SUNY College-Old Westbury; Taylor Business Institute-Hempstead; Technical Career Institute-New York; The Oliver Schools, Inc-Rochester; Touro College-New York; Ultissima Beauty Inst at Flushing-Flushing; VEEB Nassau County Sch of Practical Nursing-Uniondale; Westchester Community College-Valhalla; Westchester Sch of Beauty Culture-Mt Vernon; Wilfred Academy-Hauppauge, Riverhead, Selden.

NORTH CAROLINA: Barber-Scotia College-Concord; Blanton's Junior College-Asheville; Elizabeth City State University-Elizabeth City; Hamilton College-Charlotte; King's College-Raleigh; Rutledge College-Greensboro, Fayetteville; Saint Augustine's College-Raleigh; Shaw University-Raleigh; Winston-Salem State University-Winston-Salem.

OHIO: Airco Technical Institute-Cleveland; Akron Inst Med Dent Assts-Akron; Betz College-Cincinnati; Bliss College-Columbus; Central State University-Wilberforce; Cincinnati Metropolitan College-Cincinnati; Cooper School of Art-Cleveland; Davis Jr. College of Business-Toledo; Elyria Academy of Cosmetology-Elyria; Gallipolis Business College-Gallipolis; Sawyer School of Business-Dayton; Southwestern College of Business-Kettering; Virginia Marti School of Fashion Careers-Lakewood; Wilberforce University-Wilberforce.

OKLAHOMA: Draughon School of Business-Oklahoma City, Tulsa.

OREGON: Blue Mountain Community College-Pendleton; Computer Career Institute Inc.-Portland.

PENNSYLVANIA: Airco Technical Institute-Philadelphia; American Academy of Broadcasting-Philadelphia; Cheyney State College-Cheyney; Community College of Philadelphia-Philadelphia; Lincoln University-Lincoln University; McCarrie Schools Inc.-Philadelphia; National School of Health Tech.-Philadelphia; Pinebrook Jr. College-Coopersburg; Tracey-Warner School Inc.-Philadelphia.

PUERTO RICO: American College of Puerto Rico-Bayamon; Bayamon Central University-Bayamon; Caribbean University College-Bayamon; Fundacion Educativa Ana G Mendez-Rio Piedras; University of Puerto Rico-San Juan; World University II-A-Hato Rey.

RHODE ISLAND: The Modern School-Providence.

SOUTH CAROLINA: Allen University-Columbia; Claflin College-Orangeburg; Columbia Junior College of Business-Columbia; Denmark Technical College-Denmark; Morris College-Sumter; Rutledge College-Columbia, Spartanburg; Voorhees College-Denmark.

TENNESSEE: Cumberland College of Tennessee-Lebanon; Draughons Jr. College of Business-Nashville; Dyersburg State Community College-Dyersburg; Edmondson Junior College-Chattanooga; Enrll Sch of Bty Culture-Presley-Memphis; Fisk University-Nashville; Knoxville College-Knoxville; Memphis School of Commerce-Memphis; Nashville Col of Med & Dent Assts-Madison; Tennessee State University-Nashville.

TEXAS: Allstate Business College-Dallas; Austin Community College-Austin; Bishop College-Dallas; CBM Education Center-San Antonio; Central Texas Commercial College-Brownwood; Chenier Business College-Beaumont; El Paso Community College-El Paso; Four-C College-Waco; Gulf Coast Bible College-Houston; National Beauty School #6-Mesquite; Paul Quinn College-Waco; Prairie View A & M University-Prairie View; San Antonio Community College-San Antonio; Southwest School of Medical Assts-San Antonio; Texas College-Tyler; Vougue Beauty Colleges-1,2 & 3-Wichita Falls.

UTAH: The School of Broadcasting-Salt Lake City.

VIRGINIA: Computer Learning Center-Springfield; Control Data Institute-Arlington; Lynchburg College-Lynchburg; National Business College Inc.-Roanoke; Norfolk College-Norfolk; Rutledge College-Richmond; Saint Paul's College-Lawrenceville; Virginia State University-Petersburg; Wards Corner Beauty Academy-Norfolk.

WASHINGTON: Glen Dow Academy of Hair Design-Spokane; Highline Community College-Midway; Knapp College of Business-Tacoma; M'Lady School of Beauty-Spokane; Metropolitan-Auerswald Business University-Seattle; Mr. Lee's Beauty School-Seattle; Washington Technical Institute-Seattle.

WEST VIRGINIA: Southern West Virginia Community College-Logan; West Virginia College of Graduate Study-Institute; West Virginia State College-Institute; Wheeling Beauty College-Wheeling.

WISCONSIN: American Beauty College-Milwaukee, Racine, Green Bay; City College of Cosmetology-Milwaukee; Milton College-Milton; Milwaukee Stratton College-Milwaukee; Wisconsin Conservatory of Music-Milwaukee.

Source: U.S. Department of Education.

HOUSE PANEL APPROVES ANIMAL RESEARCH ACCREDITATION BILL

Universities would have to upgrade their animal research laboratories to get federal money for health research involving large numbers of animals, under a bill approved yesterday by a House panel.

The House Science and Technology Committee, while reserving for itself another look at the bill next week before sending it to the House floor, agreed yesterday to an amendment that would require Congress to renew the bill every 10 years.

That 10-year sunset provision would be linked to the 10 years colleges would have under the bill to become fully accredited in animal research. The accreditation would be granted by private agencies approved by the Department of Health and Human Services, under the bill, H.R. 6245.

In yesterday's markup, the committee also endorsed amendments granting outright exemptions from the accreditation standards to zoos and marine animal exhibits and permitting waivers to space and defense projects when warranted by national security interests.

Animal Care Committees In addition to tying federal funds for research on animals to the new accreditation standards, the bill would require universities to set up an institutional animal studies committee composed of at least one member of the public and one veterinarian. The campus panels would review animal use in ongoing campus research.

The bill urges the National Institutes of Health to emphasize projects using alternative methods of testing and research that do not involve animals. It would ask the health secretary to appoint an advisory panel to ensure that proposals for replacing or minimizing the use of animals receive "full consideration for funding" by HHS.

The bill is the latest in a series of legislation promoted by animal welfare groups that want to ban or restrict the use of animals in biomedical research. Such efforts have been opposed by federal and university officials, who say research on diseases and drugs would grind to a halt if animals couldn't be used.

Costly Step Universities further complain that getting accreditation for their facilities, which are currently inspected by the U.S. Department of Agriculture, would be a costly and unnecessary step.

The cost of bringing all NIH grantees immediately in line with the stringent standards of the American Association for Accreditation of Laboratory Animal Care has been placed as high as $500 million. That group now accredits about a fourth of the medical centers and veterinary schools that perform research on animals.

Rep. Vin Weber, R-Minn., said yesterday the cost of accreditation was "a substantial issue." But bill sponsor Rep. Doug Walgren, D-Pa., chairman of the Science, Research and Technology Subcommittee, said colleges wouldn't spend that much if animal facilities were upgraded in the normal course of refurbishing campus buildings.

The committee beat back an attempt by Rep. Barry Goldwater Jr., R-Calif., to put the sunset provision into effect after five years.

Goldwater said the legislation would make "a significant inroad into research protocol" and should be reviewed carefully for that reason. "We're placing new requirements on universities that they can little afford ... Too much regulation could cripple the research industry." (more)

HOUSE PANEL TENTATIVELY APPROVES ANIMAL RESEARCH ACCREDITATION BILL (Cont.)

Walgren and Rep. George Brown, D-Calif., however, noted that the impact of the bill couldn't be assessed before the 10-year deadline for full accreditation.

Such a provision would encourage colleges and universities to hold off from making any improvements in animal care if they thought the standards would be abolished within five years, said Brown. The committee instead voted for the ten-year sunset clause.

Brown called the animal legislation "a consciousness-raising bill" that would result in better care of animals and more efficient research.

The panel Aug. 11 is to take a final vote on the measure with all of its amendments. There is no similar Senate bill. --MH

ED ISSUES RULES TO CUT OFF NEW NDSL AID TO HIGH-DEFAULT SCHOOLS (Cont. from p. 2)

UNCF schools have problems with defaults because they serve the poorest students, who have little experience in managing money, White said. The high unemployment rate for blacks also contributes to the pattern, he added.

Fisk University in Tennessee, one of the prominent black colleges barred from getting new NDSL funds next year, will not have to make much of an adjustment to the rules because the school did not get new funds last year, according to its president, Walter Leonard. Two years ago, he said, the school got $80,000 in new loan capital.

Although Leonard acknowledged that defaults are a great problem and that every legal attempt should be made to collect student loans, he said schools just aren't set up to be collection agencies.

Different Attitude Now He also noted many of his school's outstanding loans are left from the 1960s, when more students were of the "narcissistic entitlement mentality" and felt, "it's ours, we deserve it." Defaults recently have been much lower, he noted.

Despite the complaints, several officials including UNCF's White, AICS's Wine and Leonard Haynes, director of the Office for the Advancement of Public Negro Colleges, which is part of the National Association of State Universities and Land Grant Colleges, said ED's new rules would prompt some schools to improve their collections.

The rules, which were proposed in January, will take effect in 45 legislative days unless Congress rejects them, which it is not expected to do.

For more information, see the Aug. 2 Federal Register or contact Margaret Henry or John McGonigal, Office of Student Financial Assistance, Education Department, 400 Maryland Ave. SW, Room 4018, ROB 3, Washington, D.C. 20202, (202)245-9720. --DG

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WRITER'S DIRECT DIAL NO.
828-

March 9, 1982

Ms. Margaret Henry
Office of Student Financial Assistance
Room 4018, ROB 3
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Re: NPRM Changes in Funding "Procedure" for NDSL, CWS, and SEOG; Fed. Reg. 1-7-82

Dear Ms. Henry:

This will serve to supplement the statement filed February 22, 1982, on behalf of our client, the Association of Independent Colleges and Schools ("AICS") in the above-captioned matter.

Attached is a copy of a form letter dated March 1978 to institutional presidents concerning the disposition of certain NDSL program notes. It appears as Appendix J at page 209 of the current "Audit Guide, Campus-Based SFA Programs, Office of the Inspector General, June 1980." The first sentence of the final paragraph on the first page states as follows:

> "Your institutional default rate will be calculated each year on the basis of the annual fiscal-operations report as of June 30."

We suggest that this letter supplements and reinforces the discussion in our statement of February 22, 1982, concerning the improper calculation of the default rate for NDSL as presently practiced. It particularly illustrates default rates being based on the annual fiscal-operations report, the instructions of which, if carried out as stated, utilize the "principal amount outstanding" rather than the "principal amount past due and in default" as the basis for the computation. We continue to maintain that this is improper and contrary to the regulations, as well as inconsistent with proper procedure in the semi-annual "Report of Defaulted Loans" in ED Form 574.

We hope this will be of assistance to you as you review the NPRM concerning NDSL default penalties.

Respectfully submitted,

THE ASSOCIATION OF INDEPENDENT
COLLEGES AND SCHOOLS

Through its General Counsel,

SACHS, GREENEBAUM & TAYLER

By: R.A. Fulton
Richard A. Fulton

RAF/csd

APPENDIX J

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
BUREAU OF STUDENT FINANCIAL ASSISTANCE
WASHINGTON, D.C. 20202

March 1978

Dear President:

The purpose of this letter is to transmit instructions for the disposition of certain National Direct Student Loan Program notes which have been classified as uncollectible, and to point out the characteristics of the notes which may be assigned to the United States. Any note which your institution assigns to the United States is assigned without recompense. In other words, your institution forfeits its interest in any note assigned to the United States.

All NDSL notes which are classified as uncollectible must be valid instruments; that is, they must contain proper signatures, and correct entries to amounts advanced and dates. For some institutions audits and program reviews may have already identified defective or invalid notes for correction. However, should such invalid instruments exist today, the institution which owns the notes must buy them by depositing into the Fund an amount equal to the uncollected principal. It may then proceed to attempt collection as if the transaction originally involved institutional funds only.

Due diligence in attempting to obtain collections must be demonstrated. Subpart C of the NDSL regulations covers "Loan Collection - Due Diligence." Since this standard was published in 1976, you are not required to show full compliance with it for efforts made in prior years. However, reasonable efforts along the lines of this standard and Appendix 17 of the NDSL manual must be demonstrated to the satisfaction of the Office of Education.

An important objective should be the conservation of capital in your Student Loan Fund. Collection studies have shown that second attempts to collect on long overdue notes are frequently successful. Therefore, any delinquent note, no matter when the repayment period began, on which the slightest chance of recovery of funds still exists, should be retained by the institution and its collection actively pursued. Defaulted notes which are included in your report as of one June 30 would not be shown as defaulted in the following June 30th report if the note has been retained and the borrower has been brought back into repayment status.

Your institutional default rate will be calculated each year on the basis of the annual fiscal-operations report as of June 30. Notes which have been assigned to and accepted by the United States will be included in the basic default rate thereafter. On the other hand, notes which have been assigned to and accepted by the United States will be subtracted from your basic default rate to obtain an adjusted default rate. This adjusted default rate will be used as the basis for determining the effectiveness of your operation of this phase of your program in comparison with other institutions.

If you determine that you have valid NDSL notes on which due diligence has been performed, and there appears to be practically no chance of collection on these notes, you may then assign them to the United States without recompense.

An original OE Form 553, Assignment of Defaulted Note(s) must be completed for each loan which you wish to assign to the United States, and be certified by an institutional official who has the authority to relinquish the institution's interest in the note. A sample of this form is enclosed, and additional copies should be requested in writing from:

Mrs. Florence V. Taylor
Chief, Services and Collections Section
Campus and State Grants Branch, DPO
Bureau of Student Financial Assistance
U.S. Office of Education
Washington, D.C. 20202

A copy of the Procedural Guidelines and General Information statement is also enclosed.

Questions pertaining to this matter may be directed to Mrs. Taylor on telephone number 202-245-9727.

Sincerely yours,

Carolyn Betts

Carolyn Betts
Director
Division of Program Operations

Enclosures

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MARYLAND OFFICE
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VIRGINIA OFFICE
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February 22, 1982

Ms. Margaret Henry
Office of Student Financial Assistance
Room 4018, ROB 3
400 Maryland Avenue, S.W.
Washington, D.C. 20202

Re: NPRM Changes in Funding "Procedures" for
NDSL, CWS, and SEOG; Fed. Reg. 1-7-82

Dear Ms. Henry:

This responds to your advance notice of proposed rulemaking (47 Fed. Reg. 908-914 (January 7, 1982)) and the invitation for public comment on changes in funding "procedures" for NDSL, CWS, and SEOG.

We represent the Association of Independent Colleges and Schools ("AICS") with more than 550 institutions, along with some 300 branches, extensions, and auxiliary activities thereof. These institutions all are "institutions of higher education" for purposes of Title IV of the Higher Education Act of 1965, as amended, pursuant to either Sec. 481(a)(1) or Sec. 1201(a). Preponderantly, AICS institutions have entered into Program Participation Agreements with the Secretary pursuant to Sec. 487. Fifty percent of AICS institutions enroll fewer than 500 students.

AICS and its member institutions, as "interested persons," appreciate the gravity of the Secretary's responsibilities in administering, according to law, the so-called campus-based programs, including the NDSL. Our client continues to look forward to the opportunity of both formal and informal consultation. In such a spirit of constructive cooperation, we suggest that the NPRM of January 7, 1982, should be withdrawn and rewritten because:

1. Failure to comply with the Regulatory Flexibility Act (96-354), including lack of the requisite or adequate "succinct statement explaining the reasons for such certification" by the Secretary that these regulations will not have a significant economic impact on a substantial number of small entities.

2. Failure to comply with Title VI--Nondiscrimination in Federally Assisted Programs of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4; P.L. 88-352) because the disparate "impact" of the proposed regulations fall more harshly on one group than another so that persons on the ground of race, color, or national origin will be excluded from, denied the benefits of, or be subjected to discrimination in the administration of the NDSL under Sec. 601 and that the proposed regulations fail to carry out the mandate of Sec. 602.

3. Failure to utilize the regulatory definition for the calculation or computation of "default rate" as set out in 34 C.F.R. Sec. 674.2 for purposes of the proposed Sec. 674.6a--Funding Procedure--Federal Capital Contribution (FCC), causing the likelihood of an inflation of the "default rate" of an institution and resulting either in an erroneous reduction or denial of an FCC.

4. The disparate impact on small entities of the proposed Verification of Student Aid Applicant Information--Sections 674.22, 675.29, and 676.25 is contrary to Executive Order 12291, inconsistent with the purported certification of the Secretary under the Regulatory Flexibility Act. Further, until the Secretary does in fact "establish and publish procedures to be used for" selecting students and verifying information, the requested response on "burden reduction" or pursuant to the statutory Education Impact Statement of Sec. 409 of GEPA (P.L. 96-374) is impossible. This omission would seem to preclude these proposed regulations from becoming effective for lack of an educational impact assessment statement which shall determine whether any information required is already available.

Regulatory Flexibility Act Noncompliance

The NPRM acknowledges that "the small entities affected by these regulations are small institutions of higher education." We are informed by the Director, Division of Regulations Management, Office of General Counsel, that the NPRM of January 16, 1981, giving "Notice of Definition under the Regulatory Flexibility Act" has been "abandoned." Thus, we have no knowledge of the standard or criterion for "small" used by the Secretary in the above statement or in the certification required by the Act.

Ninety-seven percent of AICS proprietary members are "small entities" under the Act as determined by the Small Business Administration. 13 C.F.R. Sec. 121.3-10. We understand that more than 1,100 of the institutions accredited by the National Accrediting Commission of Cosmetology Arts and Sciences enroll fewer than 500 students. According to the National Association for Equal Opportunity in Higher Education (NAFEO), the organization which serves as the voice of the nation's historically and predominantly black institutions, 13 of the 111 institutions enroll fewer than 500 students. Thus, nearly 2,000 institutions would have met the proposed definition of a small entity. Surely the Secretary had some criteria for "small" when issuing the certification, but what it is we know not! We think the public is entitled to know.

All institutions with a Program Participation Agreement would normally file annually the required FISAP statement (ED Form 646), which on page 15 reports students who have shown "need" by brackets of family income, taxable and non-taxable. It is thus available to ED to compare the family income of students in some 2,000 small entity institutions with that of students in all institutions eligible for Title IV campus-based programs. We suggest that there will be a disparate economic impact of the NPRM that will fall more harshly on the students in the small entity 2,000 we have aggregated and for which the Secretary has data in the FISAP reports.

Purportedly the Secretary has availed himself of the authority of Sec. 605(b) of the Regulatory Flexibility Act to certify that the proposed rules will not have a significant economic impact on a substantial number of small entities. The SBA has not confirmed to us receipt from ED of the statutory notification. More importantly, we question and put at issue the "adequacy" of what the ED OGC has identified to us as the "succinct statement explaining the reasons for such certification."

According to ED OGC in a telephone call on February 19, 1982, at 10:12 a.m., the following constitutes the "succinct statement explaining the reasons."

> "The regulations propose changes in the procedure for allocating program funds to institutions and calculating the Federal capital contribution, and they would permit the Secretary to require verification of information submitted by student aid applicants." (Emphasis supplied.)

We submit the foregoing gives no "reasons," succinct or otherwise, why the proposed regulations will not have a significant economic impact on a substantial number of small entities. The proposed regulations will in fact have a significant economic impact, including:

1. Creating an irrebuttable presumption against those with a default rate computed to be in excess of 25%.

2. Diminish substantially the FCC for those with a default rate of greater than 10% but not more than 25% through the use of a default computation formula inconsistent with 34 C.F.R. 674.2, creating a significant economic impact on institutions and students known to or readily ascertainable to ED through its own data based on FISAP reports filed annually.

The Regulatory Flexibility Act (P.L. 96-354) amends the Administrative Procedure Act in 5 U.S.C. 551-59 et seq. "The APA requires not only findings but also reasons, ..." "Reasons differ from findings in that reasons relate to law, policy, and discretion rather than to facts." K. Davis, Administrative Law Text 341 (1971).

The certification by the Secretary describes the action as mere "changes in procedure." However, in the next column at page 910 of the Federal Register, in "Citation of Legal Authority," it is explicitly stated that the statutory or other legal authority follows "each substantive provision of these proposed regulations." Sec. 674.6a, which would deny an FCC to an institution with a default rate in excess of 25%, and Sec. 674.7, which limits appeals only to institutions with some funding level of FCC, are followed by the parenthetical citations of statutory authority of 20 U.S.C. 1087bb. Thus, despite the Secretary's description (or succinct reason?) that the proposed regulations are procedural, we feel the inference is fairly drawn that they are in fact substantive. The Regulatory Flexibility Act clearly seeks to provide for "small entities" alternative regulatory approaches. Sec. 2(a)(7), P.L. 96-354.

We suggest that the certification of the Secretary is (1) lacking, (2) inadequate, or (3) inaccurate, or all three. This failure to comply with the Regulatory Flexibility Act, while an independent ground for withdrawal for rewriting, is additionally related to noncompliance with Title VI of the Civil Rights Act.

Civil Rights Act Noncompliance

Nondiscrimination in federally assisted programs is mandated by the Title VI of the Civil Rights Act. 42 U.S.C. 2000d-2000d-4 (P.L. 88-352). The proposed regulatory changes in allocating and funding levels of the FCC, though facially neutral in their treatment of different schools and the degree to which any school serves low-income, disadvantaged and minority groups, result in a "disparate impact" on Blacks and Spanish-surnamed Americans so that they are less favorably treated in access to NDSL program support. The discriminatory impact is the standard by which the irrebuttable criteria of the over 25% exclusion and the 10% through 25% reduction of FCC should be measured, even though there is no specific intent to discriminate by ED.

Black and Hispanic students will be excluded from, be denied, or experience reduced NDSL benefits, and be subjected to discrimination in the administration of the NDSL despite the prohibition of Sec. 601 and the mandate to ED in Sec. 602, because of the "disparate impact" of these proposed regulations on schools with a history of higher default rates but serving such students. These proposed regulations are not consistent with achievement of the objectives of the Higher Education Assistance Act of 1965, as amended.

Our hope is to point out to the Secretary the serious pitfalls and profound potential for litigation should these regulations go unamended. The data which would most appropriately provide the prima facie case of discrimination would be established by statistics now in the care, custody, and control of ED. The Congress expects the Secretary to use such information on Blacks, Hispanics, and low-income persons in the Sec. 342 Waiver of Authority and Reporting Requirement of the Title III Institutional Aid programs. If the Secretary can determine "that the institution has traditionally served substantial numbers of black students" for Title III, he can and should do the same in Title VI!

We fervently hope that the adversarial nature of litigation in which data need be compiled quantitatively can and should be avoided. However, we would respectfully point out the successful efforts of ED in Title VI litigation establishing the judicial legitimacy of "discriminatory impact" despite no specific intent to discriminate by its practice. Board of Education, New York City v. Harris, 444 U.S. 130, 62 L.Ed.2nd 275, 100 S.Ct. 363 (1979). See also, Teamsters v. U.S., 431 U.S. 324, 52 L.Ed. 396, 97 S.Ct. 1843 (1977); particularly the discussion of "disparate impact" at page 415, footnote 15.

It is indeed ironic that any institution which has failed to carry out a Program Participation Agreement under Sec. 487 is entitled to notice and a hearing on the record before loss of NDSL funds; or that the Secretary has statutory "discretion" to award Title III funds. However, if the default rate exceeds 25%, an irrebuttable regulatory presumption--without access to the National Appeal Panel--is created without any opportunity to establish that "...default rate does not reflect its current collection efforts." The proposed regulation Sec. 674.7(d)(2) permits this justification for institutions with a default rate of 10% through 25%!!

We vigorously urge that the regulations be amended to permit threshhold access to the National Appeal Panel for any institution, including one with a default rate in excess of 25%, which can certify that it serves a substantial number of minority, educationally disadvantaged, and/or low-income students. Such threshhold access would be an initial and separate determination. Once having achieved access to the National Appeal Panel, the institution should then have the same burden of proof as any other institution to document the items in Sec. 674.7(d). This could include important issues such as the fact that its default rate does not reflect its current collection efforts or that the standard expected family contribution figures do not accurately reflect the characteristics of the student body where there may be no family contribution. See subsection (d)(2) and (d)(4).

The right of access to the National Appeal Panel for any institution serving a substantial number of minority, educationally disadvantaged, or low income students should not be denied by the barrier of an irrebuttable regulatory presumption. The Secretary has data under Title III and through family income reports by brackets on page 15 of the ED Form 646 FISAP report. We do not seek to have the burden of documentation reduced in the merits of the appeal. We only seek the right to rebut a presumption against access to an appeal. That is a threshhold issue separate from the merits. Such threshhold access to the National Appeal Panel should substantially diminish the potential for "disparate impact" of these proposed regulations.

Default Rate Improperly Computed

Inflated default rates are the result of ED's failure to follow the computational formula of its own regulatory definitions! The result is that institutions are improperly placed in the 11% to 25% category of diminished FCC or the greater 25% category of irrebuttable denial. This results from the unauthorized computation required of schools in page 9, Section C-1, and the required utilization of that data in column "e" rather than column "f" of page 12 of the FISAP report, otherwise identified as ED Form 646. The

FISAP instructions are not in accord with the regulatory definition of "default rate" which are explicitly affirmed in Section 674.6a(d) of the proposed regulation. The unauthorized FISAP instruction can and does result in a higher than proper numerator in the equation than the correct computation of the semi-annual "Report of Defaulted Loans" in ED Form 574.

The instructions in the semi-annual report for column (d), "Principal Amount in Default," state:

> "Include only the principal amount that should have been paid and is in default because of nonpayment. Do not include the entire principal amount even if that amount has been declared due and payable as the result of nonpayment."

The regulations in Sec. 674.2 define "default rate" as the result of dividing "Defaulted principal amount outstanding," the numerator, by "matured loans," the denominator. "Defaulted principal amount outstanding" is also defined by the regulation as:

> "The total amount borrowed that has reached the repayment stage minus any principal amount repaid or canceled on loans, etc."

Curiously, the FISAP report (ED Form 646) at page 9 reprints in column two the same ratio formula using the same words for both the numerator and the denominator as are in Regulation 674.2. However, the instructions in column one of page 9 for the numerator in the computation differ drastically from the regulation and the semi-annual report. It is not the "Defaulted Principal Amount Outstanding" which is placed in the numerator for the computation in the FISAP but rather the "Principal Amount Outstanding." The instructions in column two of page 9 clearly require the use of the amount in column "e" rather than column "f" of line 8 in Section C. Column "f" follows the regulatory definition.

Column "e" is: Principal Amount Outstanding.

Column "f" is: Principal Amount Past Due and in Default.

Column "f" of FEDAC R-54 complies with the regulatory definition of "Defaulted principal amount outstanding." Column "e", which in most cases is a higher figure and resulting in a higher "default rate" does not! Not all of a loan is in default merely because a portion is past due.

The result of ED's unauthorized formula is that many institutions, particularly those which have come into the NDSL program in its later years, are forced incorrectly into a false default rate resulting in a diminution or loss of FCC. Most of these schools serve substantial numbers of low-income, minority, and educationally-disadvantaged students.

We suggest the time is overdue for ED, at a minimum, to follow its own regulatory definition and computation of "default rate."

Regulatory Compliance Includes ED

Our client appreciates the enormous administrative responsibility reposed in the Secretary for improved administration of the campus-based programs. Timely disbursal of campus-based funds is essential to institutional planning. We fear that the potential for confrontation and delay by way of injunction in the judicial forum is most serious because of the failure of the Department to abide by or take account both the letter and the spirit of:

1. The Regulatory Flexibility Act
2. Title VI of the Civil Rights Act
3. The Education Impact Statement of GEPA and its relationship to Executive Order 12291.
4. Its own NDSL regulatory definitions of "Default or in default," "Default Rate," and "Defaulted principal amount."

Suggestions for Revision

While we do sincerely point out in the proposed Rule what we feel to be the ominous and the grave consequences, our goal is to cooperate with the Secretary to revise the proposed rule both to comply with the law and to help students and schools. To do this, we would, at a minimum, suggest:

1. Permit any school which can show that it serves a substantial number of minority, educationally disadvantaged, and low-income students, despite a default rate in excess of 25%, to have access to the National Appeal Panel pursuant to Sec. 674.7 even though it has not received a Federal capital contribution.

2. Change the computation of "default rate" to conform to existing statutory definitions, including the use of the amount in column "f" rather than "e" of the FISAP report in ED Form FEDAC R-54 and the instructions in page 9 of Form 646.

3. Develop alternative regulatory approaches for "small entities" such as eliminating the requirement that delinquent loans must be sent to litigation for compliance. Possibly, perhaps, for small entities such loans could be turned over earlier to ED for collection but without total loss of the FCC. Possibly this could be done on a service charge basis.

4. Convene a meeting of representatives of institutions which are small entities and institutions which serve low-income, minority, and educationally disadvantaged students to discuss alternative remedies.

Conclusion

The proposed regulations are drastic in impact. The failure of the Department to comply with either the spirit or the letter of the Regulatory Flexibility Act is manifest. The Title VI consequences for many students and schools are grave. The Educational Impact Statement requirement seems caught in a "Catch-22" situation because many criteria to be used by the Secretary are yet to be disclosed. All of this creates a climate which both frustrates and inhibits positive receptivity of those regulations in this draft.

We urge, at a bare minimum, that the revisions we have suggested be adopted in the Final Rule. Meanwhile, we look forward to the possibility of an invitation to constructive cooperation in revising the proposed rules.

Respectfully submitted,

THE ASSOCIATION OF INDEPENDENT
COLLEGES AND SCHOOLS

Through its General Counsel,

SACHS, GREENEBAUM & TAYLER

By:________________________
Richard A. Fulton

RAF/csd
Attachments: ED Form 574
ED Form 646, page 9
ED Form 646, FEDAC No. R-54

U.S. DEPARTMENT OF EDUCATION OFFICE OF POSTSECONDARY EDUCATION OFFICE OF STUDENT FINANCIAL ASSISTANCE WASHINGTON, D.C. 20202 **NATIONAL DIRECT STUDENT LOAN PROGRAM**	**PLEASE READ INSTRUCTIONS BEFORE COMPLETING THIS FORM**	Form Approved: FEDAC No. R-226 APP.EXP.: 9/83 COMPLETE THIS REPORT AND RETURN BY April 17, 1981 THE ORIGINAL AND ONE PHOTO COPY TO: U.S. DEPARTMENT OF EDUCATION OFFICE OF STUDENT FINANCIAL ASSISTANCE CAMPUS AND STATE GRANTS BRANCH, OPO 400 MARYLAND AVENUE, S.W. WASHINGTON, D.C. 20202

NAME OF INSTITUTION	TELEPHONE NUMBER ( )	SERIAL NUMBER (CSGB)
ADDRESS (INCLUDE ZIP CODE)		ENTITY NUMBER (EN) 1-

REPORT OF DEFAULTED LOANS AS OF DECEMBER 31, 1980

LENGTH OF TIME IN DEFAULT AND FREQUENCY OF INSTALLMENTS	NUMBER OF BORROWERS IN DEFAULT (a)	AMOUNT LENT (b)	PRINCIPAL AMOUNT REPAID OR CANCELLED (c)	PRINCIPAL AMOUNT IN DEFAULT (d)
1. 120 DAYS OR MORE UP TO 1 YEAR (MONTHLY INSTALLMENTS)				
2. 180 DAYS OR MORE UP TO 1 YEAR (OTHER INSTALLMENTS)				
3. MORE THAN 1 YEAR UP TO 2 YEARS				
4. MORE THAN 2 YEARS				
5. BORROWERS WHOSE DEFAULTED LOANS WERE REFERRED TO AND RECEIPTED BY U.S. BETWEEN SEPT.16, 1979 & DEC.31, 1980				

WARNING: Any person who knowingly makes a false statement or misrepresentation on this form may be subject to a fine of up to $10,000 or to imprisonment of up to 5 years or to both under provisions of the United States Criminal Code. Such provisions may include, among others, 18 U.S.C. 1001.

TYPED NAME OF FINANCIAL AID ADMINISTRATOR	SIGNATURE	DATE SIGNED
TYPED NAME OF CHIEF FISCAL OFFICER	SIGNATURE	DATE SIGNED

INSTRUCTIONS

This form shall be used by institutions, which have established a loan fund under this program, for reporting defaulted student loans as required under Section 463(a), 20 U.S.C. 1087cc, as amended by the Education Amendments of 1980. This includes institutions that are no longer making loans to students but are responsible for the collection of outstanding loans issued while an active participant.

* "Default" or "in default" means the failure of a borrower to make an installment payment when due, or to comply with other terms of the promissory note under circumstances where the institution finds it reasonable to conclude that a borrower does not intend to honor his/her obligation to repay.

ALL AMOUNTS SHOULD BE IN WHOLE DOLLARS ONLY. FOR EXAMPLE $10,542 (NOT $10,542.36 or $10,542.00).

Name and address of institution. Enter the name and address, including zip code, of your institution. If your institution's name or address has changed, enter the old name or address in parentheses below the new.

Serial Number (CSGB): Enter only the LAST FOUR digits of the document number which identifies allocations awarded to your institution to operate one or more of these programs -- NDSL, CWS and/or SEOG.

ENTITY NUMBER: Enter the nine-digit employer identification number assigned by the Internal Revenue Service, and the two-digit suffix assigned by the ED Central Registry System.

Report ALL defaulted loans held by your institution. DO NOT include defaulted loans assigned/referred and acknowledged by receipt from the U.S. Department of Education as of September 13, 1979 or defaulted loans assigned to the U.S. Department of Education without recompense after September 13, 1979.

Enter in Line 1, Column a, the actual unduplicated number of borrowers whose loans have been in default for 120 days or more up to 1 year, repayable on monthly installments. Enter in Column b, the total principal amount lent to these students, including any late charges added. Enter in Column c, the total principal amount repaid by these borrowers, either by cash or legal cancellation through teaching or military service. Enter in Column d, the principal amount in default. Include only the principal amount that should have been paid and is in default because of nonpayment. Do not include the entire principal amount even if that amount has been declared due and payable as the result of nonpayment.

See definition in Regulations

acceleration clause

Enter in Line 2, Column a, the actual unduplicated number of borrowers whose loans have been in default for 180 days or more up to 1 year, repayable in other than monthly installments.

Enter in Line 3, Column a, the actual unduplicated number of borrowers whose loans have been in default for more than 1 year up to 2 years.

Enter in Line 4, Column a, the actual unduplicated number of borrowers whose loans have been in default for more than 2 years.

Enter in Line 5, Column a, the actual unduplicated number of borrowers whose loans have been in default for more than 2 years which were referred to and receipted by the U.S. Department of Education between September 16, 1979 and December 31, 1980.

NOTE: For entries on Lines 2, 3, 4, and 5 in Columns b, c, and d, refer to the instructions above regarding the entries on Line 1, Columns b, c, and d.

ED FORM 576 2/81 GPO 870 610

INSTRUCTIONS FOR PART II – NATIONAL DIRECT STUDENT LOAN PROGRAM, ED FORM 646, PAGES 11, 12 and 13
(Continued)

120 days if repayable in monthly installments and 180 days if repayable in less frequent installments.

Lines 7.1-7.4. Report the total number of borrowers *(and amounts)* whose accounts are either in default or past due as of June 30, 1980, but are not included in computing the default rate. The data in these lines should not be included in the data in line 8 of this Section.

Line 7.3. Report the number of borrowers *(and amounts)* whose accounts are "past due" but not in default because of consistent partial repayments or the institution has reasonably concluded from written contact with the borrower that he or she intends to repay the loan. The data in this line item should not include the data which appears on lines 7.1 and 7.2.

Line 8. Sum of lines 8.1, 8.2, 8.3, 8.4, and 8.5, columns a, b, c, e, and f.

Line 8.1. Report the number of borrowers *(and amounts)* whose defaulted loans were referred to and receipted by the Department of Education between September 16, 1979 and June 30, 1980.

Lines 8.1-8.5. Report the total number of borrowers *(and amounts)* whose accounts are in default as of June 30, 1980 by length of time in default, and are included in computing the default rate. "Default" or "in default" means the failure of a borrower to make an installment payment when due, or to comply with other terms of the promissory note under circumstances where the institution finds it reasonable to conclude that a borrower does not intend to honor his or her obligation to repay. Count each borrower only ONCE in the appropriate category by the oldest payment in default. The data in these line items should not appear in any other line item in Section C.

Line 1, column a, is the sum of lines 2, 3, 4, 5, 6, 7 and 8, column a.

Line 1, column b, equals line 1, columns c, d and e.

Line 1, column d equals lines 3 and 4, column d.

Line 1, column e, is the sum of lines 3, 5, 6, 7, and 8, column e.

Line 1, column f, equals lines 7 and 8, column f.

Line 1, column g, equals line 5.4, column g.

The following entries in Part II, Section C, should agree with entries Part II, Section A:

(1) Section C, line 1, column a equals Section A, line 4, column b.

(2) Section C, line 1, column b equals Section A, line 4, column c.

(3) Section C, line 1, column c equals Section A, sum of lines 5, 6, 7, 8, 9, 10, and 11, column d.

(4) Section C, line 1, column d equals Section A, line 5.1, column d.

SECTION C-1 – DEFAULT RATE

All institutions are required to compute their default rate and enter it in line 1, page 13. "Default rate" for an institution means the principal amount outstanding on Defense and Direct loans in default for 120 days if repayable in monthly installments, or 180 days if repayable in less frequent installments, divided by the matured loans (principal amount of all loans made minus the principal amount of loans that have not reached the repayment period). The default rate is computed as follows:

See definition in Regulations
The above does not comply
with the Regulations. Also,
see the next page.

Step 1. Section C, line 1, column b, page 12 Amount Lent

minus

Line 5.1, column b, student status at your institution

5.2, column b, student status at another institution

5.3, column b, grace period

Step 2. Divide the sum of the defaulted principal amount outstanding, Section C, line 8, column c as of June 30, 1980, by the amount derived in step 1 above. Compute two places beyond decimal point, e.g., 10.05.

DEFAULT RATE: Represented as a fraction:

$$\frac{\text{Defaulted Principal Amount Outstanding}}{\text{Matured Loans}} = \text{DEFAULT RATE}$$

SECTION D – COLLECTION ACTIVITIES AS OF JUNE 30, 1980

Section D collects various types of information on the collection activities of your loan program. Each of lines 4 through 8, considered SEPARATELY, contains an unduplicated number of borrowers, but a borrower may be entered in more than one line in Section D. *(Additionally all borrowers presented in Section D have been included in Section C.)*

Lines 1-3. Self-explanatory.

Line 4. Report the unduplicated total number of delinquent borrowers and the total principal amount past due which is currently assigned as of June 30, 1980 to the agent(s) indicated in line 3. Include the total principal amount outstanding for a loan only if (a) the total amount outstanding has been declared due and collectible as a result of the delinquency and (b) the institution has turned over the entire amount to the collection agent(s).

Line 5. Report the number of borrowers involved and the principal plus interest collected for your institution during the 1979-80 Award Period only by the collection agent(s) indicated in line 3.

Line 6. Report the amount paid to the collection agent(s) as its fee, for any amount of principal and interest collected during the Award Period as shown on line 5.

Line 7. Report the total number of borrowers and the total loan principal outstanding for borrowers against whom you have legal action currently in process.

Line 8. Report the total number of borrowers and the total loan principal outstanding for borrowers whose current address is unknown and with whom you have lost contact.

SECTION E – BILLING AND COLLECTION AGENCIES USED AS OF JUNE 30, 1980

A. Enter the name and address of billing agent(s) if "YES" is checked in Section D above.

B. Enter the name and address of collection agent(s) if "YES" is checked in Section D above.

PART II-NATIONAL DIRECT STUDENT LOAN PROGRAM *(Continued)*

PLEASE READ INSTRUCTIONS BEFORE COMPLETING THIS FORM.

FORM APPROVED
APP. EXP.: 6/81

FEDAC No. R-84

NAME OF INSTITUTION

SERIAL NUMBER (CODE)

SECTION C – CUMULATIVE REPAYMENT INFORMATION AS OF JUNE 30, 1980

STATUS OF BORROWERS AS OF JUNE 30, 1980	NUMBER OF BORROWERS a	AMOUNT LENT b	PRINCIPAL AMOUNT REPAID OR CANCELLED c	LOAN PRINCIPAL ASSIGNED TO AND RECEIPTED BY THE U.S. d	PRINCIPAL AMOUNT OUTSTANDING e	PRINCIPAL AMOUNT PAST DUE AND IN DEFAULT f	PRINCIPAL AMOUNT IN DEFERRED STATUS g
1. Total number of borrowers and amount advanced		1,000	0	0	1000	240	
2. Borrowers whose loans are fully retired							
3. Borrowers whose defaulted loans were assigned/referred to and receipted by the U.S. on or before Sept. 15, 1979							
4. Borrowers whose defaulted loans were assigned to and receipted by the U.S. between Sept.16,1979 and June30,1980							
5. Total Borrowers not in repayment status *(sum of lines 5.1 through 5.4)*							
5.1 Student status at your institution							
5.2 Student status at another institution							
5.3 Grace period							
5.4 Deferment							
6. Borrowers on schedule in repayment status							
7. Total Borrowers whose accounts are currently in default/past due but not used in computing the default rate *(sum of lines 7.1 – 7.3)*							
7.1 Less than 120 days (monthly installments)							
7.2 Less than 180 days (other installments)							
7.3 Borrowers whose accounts are past due but not in default							
8. Total Borrowers whose accounts are currently in default & used in computing the default rate *(sum of lines 8.1 – 8.5)*		1000^{00}			1000	240	
8.1 Borrowers whose defaulted loans were referred to and receipted by U.S. between Sept. 16, 1979 & June 30, 1980							
8.2 120 days or more up to 1 year *(monthly installments)*		1000^{00}	0				
8.3 180 days or more up to 1 year *(other installments)*							
8.4 More than 1 year up to 2 years							
8.5 More than 2 years							

Dept of Ed [illegible] 8 Line 8f. [illegible]

[illegible] 1000 8 f. 240 [illegible]

Mr. **Stanley**. One other problem that we have is that our appeal efforts have been stymied this year. We were put in a unique situation in that we were forced to make appeals based on proposed regulations at the time, and not on existing regulation.

We did appeal, all of our schools made appeals, and we appealed on the existing regulations which were totally disregarded by the process and these were regulations which, of course, were not final at that time and still are not effective.

The action that the Department of Education took in ignoring these appeals and existing regulations points out to us that the department was and is committed to implementing without amendment those proposed rules of January 7, which makes it appear to us that the whole process is illusory and also in violation of the spirit and letter of the law.

I hear a lot now from talking with people in the Department of Education and some of my colleagues in financial aid that the problem is timing, that we have had delays and we need to get this money out to the students.

Had the Department of Education in a timely manner, no matter how unfairly, implemented those regulations, their current case for instant congressional acquiescence might have merit. Unfortunately, they did not do that, and now we are in a situation because of the 45-day rule that it could be well into October before we get any funds from the Department of Education.

Meanwhile, we are trying to adjust to interim final awards for NDSL and not knowing what we are going to have to work with for students.

To summarize, sir, I would like to urge the committee to bear in mind the following points. One, that the rate or standard of progress an institution makes in cutting default rates should be a deciding factor in measuring continued eligibility for National Direct Student Loan Federal capital contributions. The new Ed regulations completely disregard this effort.

Two, that responsibility for the delay in publishing these regs is solely that of the Department of Education, and not that of institutions and not that of Congress. Therefore, they should be further delayed until at least the 1983-84 academic year. During this time, we hope they will be amended.

We urge Congress to support National Direct Student Loan regulations which will stimulate institutions to reduce NDSL default rates which will reward successful efforts of institutions which evidence progress and which measure institutional performance in an objective and quantitative standard.

Thank you, Mr. Chairman.

Mr. **Simon**. Thank you.

Our final witness, and I want to apologize in advance in case I leave before you are through because I have already delayed another meeting 30 minutes here, but if the three witnesses can stay, even though I am leaving, so the majority and minority counsel can ask any questions, I would appreciate it.

Our final witness is president of one of America's finest schools and if you will forgive a personal reference here, one of my reasons for being in politics today is that a very, very poor student, economically, was given a chance to go to Bowdoin College, and his name was Paul Douglas, and Paul Douglas is, if I have a political mentor, Paul Douglas is that mentor.

I probably follow very inadequately in his precepts and the way he launched me. But what we are talking about is a young man, dirt poor in Maine, who was given an opportunity. His father had left the family and he grew up in a little community that I have visited up in Maine where there is not even a road into the town, you reach it by railroad or you stop the car and then you walk to get to this little town. It can hardly be called a town, even.

But somewhere, somehow, Bowdoin College gave an opportunity to Paul Douglas and what we are really talking about is how do we give opportunities to the Paul Douglases of the future.

With that introduction, Mr. President, we are going to call on you.

STATEMENT OF LEROY GREASON, PRESIDENT, BOWDOIN COLLEGE, BRUNSWICK, MAINE

Mr. **Greason**. Thank you, Mr. Chairman. I will try to be brief and summarize——

Mr. **Simon**. If you can move that mike over in front of you.

Mr. **Greason**. All right. I simply said, thank you, Mr. Chairman, and I shall try to be brief and simply stress three or four matters that I think are important, with illustrations that are not in the testimony which I have submitted to the committee.

And if you can stay for just the first minute of what I have to say, you may run out without embarrassing me at all.

Mr. **Simon**. I am going to stay here for another 10 minutes, but at that point, I am going to have to leave.

Mr. **Greason**. All right. Well, as you can see, I am anxious about three points. The first is that the regulations that are presumably going into effect, so-called final regulations of August 2, eliminate Bowdoin College from both current and future participation in national direct student loan program in a way that I think was neither foreseen nor intended.

I am referring to the Federal capital contribution in the program, and it seems to me remarkably ironic that the formula should work this way. Bowdoin has a 6-percent default rate, we work very hard at it, we do have entrance and exit interviews on this, we have a followup with a series of letters when there is a default, and when we have not been able to reach them, and in some human way try to resolve the difficulty that makes repayment hard, then, indeed, we do become tough and quite prepared to resort to the courts after every other effort has failed. It is not as though our need were any less.

Five years ago, the money that Bowdoin itself had to lend, the money we received through NDSL, funded all undergraduate loans. Today, they handle about 40 percent of them. In view of those considerations, it seems to me a shame that we now have a set of regulations excluding such a college from the FCC part of the program.

Now I have also submitted for the record a letter which explains how that formula has worked, a letter from our director of student aid to Mr. Moore of the Department of Education.

Mr. SIMON. Mr. President, if I may interrupt you, I have just read the letter, but I don't understand it. Can you explain it to me?

Mr. GREASON. If I understood it, I don't think I would be a college president. It simply is a following-out of the formula in the first instance, that is, last year, we had a choice between 211,000 or 301,000 whichever was larger. This year we have to go with the lesser of the two, and we are not eligible for about $60,000 of FCC funding.

In fact, I have here, and I would like to enter it for the committee's record, too, our notification from the Department of Education, indicating that the amount we will receive for FCC this year is zero dollars.

Mr. SIMON. We will enter that in the record, along with Mr. Moulton's letter.

[The letters referred to above follow:]

ED230082A-2

BOWDOIN COLLEGE

DIRECTOR OF STUDENT AID BRUNSWICK, MAINE 04011

July 19, 1982

Mr. James Moore
Director, Student Financial Aid Programs
U.S. Department of Education
Office of Student Financial Assistance
400 Maryland Avenue, S.W. (ROB-3)
Washington, D.C. 20202

Dear Jim,

Here is the follow-up letter you asked me to write during our telephone conversation last week. Please consider this Bowdoin's request for reinstatement of a 1982-83 NDSL Conditional Guarantee - Level of Expenditures amounting to $301,304. We have already appealed this matter to the National Appeals Panel, and we were denied on a pro-forma basis since the matter was listed as a non-appealable item.

You may recall that our problem relates to the difference between computation of a Conditional Guarantee between current regulations (January 19, 1981) and proposed regulations (January 7, 1982). Under the January 19, 1981 regulations governing applications for federal funds, the calculation for Conditional Guarantee - Federal Capital Contribution is done as follows:

Conditional Guarantee is the greater of -

I. Base Year Level of Expenditure times 90% or,

II. Current Year Funding Level times Utilization Rate times 90%

In Bowdoin's case, the mathematics work this way

I.	Base year LOE x 90%	
(A)	Loans made 1980-81	$223,900
(B)	Administrative Expense	11,178
	Total	$235,078
		x .90
		$211,570
II.	Current Year Funding Level x Utilization Rate x 90%	
(A)	FCC Current Year (corrected)	$ 94,581
(B)	Institutional Capital Contribution (ICC)	10,404
(C)	110% of base year collections	214,433
(D)	Reimbursements for cancellations	1,372
(E)	Cash on hand 6/30/81	13,992
	Total	$334,782
	Utilization Rate	x 1.00
		$334,782
		x .90
		$301,304

Use of the higher figure, $301,304 would then lead to a Conditional Guarantee - FCC of $63,371.

The substitution of the January 7, 1982 proposed regulations for the January 19, 1981 regulations eliminates Part II of the formula for calculating Conditional Guarantee - LOE. Use of the lower figure ($211,570) in conjunction with an estimated increase in the amount available from collections, then eliminates Bowdoin from eligibility for any new federal funds in the NDSL Program.

I believe the January 7, 1982 regulations have had a mathematical impact upon Bowdoin that was neither foreseen nor intended.

They would also have the effect of locking our LOE to the 1980-81 year, thus preventing Bowdoin from qualifying for a Federal Capital Contribution in succeeding years. Furthermore, the January 7, 1982 regulations are proposed not final and they were not issued until after applications were submitted.

In the past, the Department has increased the Level of Expenditure for a number of institutions for various reasons. I ask that you do so now in Bowdoin's case so that we may continue to participate in the NDSL Program. In making this request, I am not seeking any advantage for the College but merely continued participation under the same ground rules that have applied in years past and still exist in current regulations.

I hope to hear from you as soon as possible so we can make whatever plans are required as the 1982-83 academic year gets underway.

Sincerely,

Walter H. Moulton
Director of Student Aid

WHM:B

cc: Dean Wilhelm
Mr. Woodall

BOWDOIN COLLEGE
BRUNSWICK, MAINE 04011

PRESIDENT

August 19, 1982

AUG 23 1982

The Honorable Paul Simon
Chairman
Subcommittee on Postsecondary Education
Committee on Education and Labor
House of Representatives
320 Cannon House Office Building
Washington, D.C. 20515

Dear Mr. Simon:

Enclosed is the copy you requested of Mr. Walter H. Moulton's first letter to the Department of Education appealing the results for Bowdoin of the new regulations governing the National Direct Student Loan Program. For a college to be excluded from Federal Capital Contribution Funds in spite of a 6 percent default rate seems wrong to me. The new regulations must be producing results that were, as Mr. Moulton observes, "never anticipated and never intended."

Let me once again thank the Committee for the opportunity to appear before it. Your kind remarks about Bowdoin and Senator Douglas were very much appreciated.

Sincerely,

Roy Greason

A. LeRoy Greason

ALG/jk

Enclosure

BOWDOIN COLLEGE

DIRECTOR OF STUDENT AID BRUNSWICK, MAINE 04011

April 20, 1982

APPEALS
NDSL/CWS/SEOG
Post Office Box 23914
L'Enfant Plaza
Washington, D.C. 20024

Dear Sir,

I write on behalf of Bowdoin College to appeal our elimination from participation in any further distribution of Federal Capital Contribution in the National Direct Student Loan Program. Although this letter is technically not addressed to any appealable item, that is only because the problem itself had not been identified at the time that the provisions for appeal were written.

Under the January 19, 1981 regulations governing applications for federal funds, the calculation for Conditional Guarantee - Federal Capital Contribution is done as follows:

Conditional Guarantee is the greater of -

I. Base Year Level of Expenditure times 90% or,

II. Current Year Funding Level times Utilization Rate times 90%

In Bowdoin's case, the mathematics work this way

I. Base year LOE x 90%	
(A) Loans made 1980-81	$223,900
(B) Administrative Expense	11,178
Total	$235,078
	x .90
	$211,570
II. Current Year Funding level x Utilization Rate x 90%	
(A) FCC Current Year	$ 94,581*
(B) Institutional Capital Contribution (ICC)	10,404
(C) 110% of base year collections	214,433
(D) Reimbursements for cancellations	1,372
(E) Cash on hand 6/30/81	13,992
Total	$334,782
Utilization Rate	x 1.00
	$334,782
	x .90
	$301,304

* This will be the amount of Bowdoin's

1981-82 FCC after ED has corrected it to account for
Panel approved changes.

Use of the higher figure, $301,304 would then lead to a conditional Guarantee - FCC of $63,371.

The substitution of the January 7, 1982 proposed regulations for the January 19, 1981 regulations eliminates Part II of the formula for calculating Conditional Guarantee - LOE. Use of the lower figure ($211,570) in conjunction with an estimated increase in the amount available from collections, then eliminates Bowdoin from eligibility for any new federal funds in the NDSL Program.

I ask the Panel and the Department of Education to consider the following points:

1. Our requested Level of Expenditure rose from $891,107 to $1,236,151 based upon auditable data for increased number of aid candidates and an increase in the cost of attendance. The new formula does not permit an increase in LOE, only a decrease.

2. The new regulations would lock LOE to the 1980-81 year thus preventing Bowdoin from qualifying for a Federal Capital Contribution in succeeding years.

3. The January 7, 1982 regulations are *proposed* not final, and, they impact upon some institutions in significantly different ways from the regulations that are now in effect. Furthermore, the proposed regulations were issued *after* applications were submitted. Notification of their use vis-a-vis Panel procedures was not given until several days ago.

4. I believe the January 7, 1982 regulations have a mathematical effect upon some colleges that was never anticipated and never intended by the Education Department.

Some adjustment in this situation is essential. I ask both the Panel and the Education Department to seek some equitable solution both in the name of Bowdoin College and for all other institutions in the country that have suffered an unwarranted loss of federal funds as a result of the formula change. It seems only fair to correct the imbalances that have occurred, even more because a failure to do so will perpetuate the inequity in the years ahead and effectively remove any procedure for redress of the grievance.

Sincerely,

Walter H. Moulton
Director of Student Aid

Mr. **Greason**. Thank you.

Now, the Department of Education has not been able to provide us with any administrative remedy for this problem. We have appealed, we have been told there is an appeal, but we have also been told we cannot appeal this particular matter because it concerns the amount of money, based on the formula. So we are in a kind of Catch-22 where there is an appeal system, and yet, we cannot—we have been told there is no deal possible in this case.

So we really have no alternative but to ask the committee to do what it can to see that there is a delay for a year while what seems to us a fairly bewildering situation is worked out.

Now the second point is simply to note the larger problem. And that is that these regulations, and I should read this carefully, "address only the loan collections which are automatically increased at a rate of 10 percent per year."

However, there is no provision for any increase at all in the conditional guarantee for a college. This assures, as we understand it, that every college in the country will be eliminated from the program sooner or later, since collections which increase automatically must finally exceed a static or declining conditional guarantee for every institution. That is the way the formula works.

I must assume that small colleges will probably be eliminated first since the amounts they deal in are relatively small, and that those colleges with the best loan collection records will be eliminated from the program fastest.

Let me just note one instance; we had, as I noted, a 6-percent default rate. There is a university close by with a 10- to 15-percent default rate, a very good university. It will receive, as I understand it, increased amounts in FCC of about $60,000, which is very roughly the amount of money that Bowdoin College will not be getting with its 6 percent default rate.

I think this is what we mean when we speak about problems coming up under the present regulations that were neither foreseen nor intended. Hence, our appeal for a postponement for a year while the matter is rethought.

The third point I will not go into in any detail. It is a scheme dear to the heart of my director of student aid who feels that, indeed, if good regulations can't be worked out, then very possibly these funds currently loaned out by the college might, indeed, become the college's for a perpetual loan fund on the basis of need and done according to some regulations which he briefly suggests here, and maybe the committee would like to recommend the Department of Education give some thought to that proposal.

But those briefly are our concerns.

[The prepared statement of LeRoy Greason follows:]

PREPARED STATEMENT OF A. LEROY GREASON, PRESIDENT OF BOWDOIN COLLEGE, BRUNSWICK, MAINE

I ask you to consider three points:

(1) The January 7, 1982 Proposed Regulations and the August 2, 1982 Final Regulations eliminate Bowdoin College from both current and future participation in the National Direct Student Loan Program in a way that was neither foreseen nor intended.

(a) For the record, I submit an explanatory letter from Walter H. Moulton, Director of Student Aid, Bowdoin College to James Moore, Director, Student Financial Aid Programs, U.S. Department of Education.

(b) To date, the Department of Education has not been able to provide Bowdoin with an administrative remedy for the problem and we have been advised that no relief is possible from this quarter.

(c) We have no alternative at this point except to request that the August 2, 1982 Regulations be disapproved so that our appropriation under the NDSL Program will once again be determined on the basis of the January 19, 1981 Regulations.

(2) There is a larger problem involved with the August 2, 1982 Regulations. They address only loan collections, which are automatically increased at a rate of 10 percent per year. However, there is no provision for any increase at all in the Conditional Guarantee for a college. This assures that every college in the country will be eliminated from the NDSL Program, sooner or later, since collections which increase automatically must finally exceed a static or declining conditional guarantee for every institution. I must assume, but cannot guarantee, that small colleges will be eliminated from the NDSL Program first. Also, those colleges with the best loan collection record will be eliminated from the program fastest. Again, this seems good reason to disapprove the August 2, 1982 Regulations and insist upon some revision to the distribution formula that recognizes an increase in conditional guarantee that is consistent with the required increase in institutional collections.

(3) Perhaps it is time to consider an alternative to the National Direct Student Loan Program. Regardless of what happens with these regulations, it may well be that the NDSL Program has outlived its usefulness. I ask the Sub-Committee to consider the following:

(a) Eliminate appropriations for NDSL thus saving 186 million dollars or so per year.

(b) Give each college title to its current NDSL balance with the provision that it be maintained as a revolving loan fund for students on a need basis.

(c) Allow each college with such a fund to lend under the Guaranteed Student Loan Program in its state or under the Federally Insured Loan Program up to the amount available from its fund annually.

(d) While this will save annual NDSL appropriations, it will not increase the total number of students borrowing under GSL. It will assure, however, that interest payments on loans made by colleges will become part of the college's revolving loan fund and will be available to future students. It will also have the salutary effect of concentrating and consolidating student indebtedness under one loan program. Because there is no satisfactory, long-term solution to the current apportionment problem in the National Direct Student Loan Program short of much, much larger appropriations, this kind of change would seem to be sensible.

Mr. SIMON. Thank you very much.

If I may direct this question to the attorneys who share the podium here, we have heard now two witnesses in this panel, we have heard from others where they go through the appeals process, but there is a feeling that the appeals process is meaningless.

Is this an accurate interpretation or am I drawing the conclusion that is not an accurate conclusion here?

Mr. BLAKEY. I don't think, Mr. Chairman, that the conclusion is entirely inaccurate. I think the problem arises this year because people were told to appeal through a process which was not in place.

In other words, we had a proposed reg that had been published in the Federal Register, people were told to follow that process when, in fact, that was neither the law nor were they bound by it, and as I think Mr. Phillips indicated, they ignored appeals that were filed under the regulation, which is what the institutions were bound by.

It is the same situation we are in right now with respect to the allocations institutions have been given, an allocation based on what was a proposed reg and is now, as far as the department is concerned, a final regulation.

I think the confusion contributed to it because institutions thought they were bound by the existing reg, not by a proposed reg, which, in fact, from a legal point of view, is what they were bound by.

Mr. **Dean**. I concur with what Mr. Blakey said, I think it is a good statement.

Mr. **Simon**. OK

Then finally, Dr. Greason, when you say maybe we ought to be looking for an alternative to the NDSL program, one of the things I hope can emerge when we reauthorize the Higher Education Act is some simplification of the whole process, not simply NDSL's but the whole ballgame. One of your suggestions in here may very well be part of that. Any ideas you have and any of the witnesses have when we come to reauthorization of the Higher Education Act, any suggestions you have as to both simplification and how we guarantee that schools continue into the future to have access to this kind of assistance to students I think is an extremely important question.

If the three of you do not object, what we would like to do is to ask you to be available for questions to Mr. Blakey and Mr. Dean here for a short time.

My apologies for ducking out on you. Thank you very, very much for being here.

Mr. **Richardson**. Thank you.

Mr. **Greason**. Thank you.

Mr. **Stanley**. Thank you.

Mr. **Blakey**. Two questions for each of you, if you would. First, President Greason, you have indicated that you did attempt at least to pursue an appeal with respect to your failure because, as I understand it from your testimony and prior conversations, the elimination of what used to be the second part of section 674.6 of the regulation is what prevented you from being able to receive a Federal capital contribution.

In other words, there was a time when you had a choice between greater than or lesser than and they only selected one, and that is what eliminated you from the program.

If the current regulation was in effect then, you would have received basically your same Federal capital contribution as last year or about the same?

Mr. **Greason**. Yes.

Mr. **Blakey**. OK. Is that problem related to any of your institutions, Mr. Phillips, and what about UMES, Mr. Richardson?

First, Mr. Stanley.

Mr. **Stanley**. No, I don't think that is really related to our situation. Our situation was that in order to protect ourselves legally, we made our appeals on the basis of existing regulations and the Department of Education just totally and completely ignored that appeal.

We did prove due diligence in our appeal. However——

Mr. **Blakey**. Diligence provided for in the——

Mr. **Stanley**. In the existing regulations. However, they felt like that did not really matter.

Mr. **Blakey**. Did UMES file an appeal and you indicated that you got some inside word, as it were, and were advised against it.

Mr. **Stanley**. Yes. As I stated in the testimony, the director of financial aid at the University of Maryland, Eastern Shore, was indeed a member of the national appeals panel.

And it was his informed opinion that given the mood prevailing in the Department of Education and the ambiguity between the proposed versus the existing regulation, that UMES would not have survived an appeal

Therefore, we did not appeal.

Mr. **Blakey**. There is a reference, president Greason, in your July 19 letter from Mr. Moulton to James Moore of the department.

Was there a prior piece of correspondence before July 19 that might provide some further clarification for the record which we could have?

Mr. **Greason**. I believe there is. Unfortunately, I do not have a copy of it with me. I will be very glad to provide it.

Mr. **Blakey**. We would appreciate it if you could supply that for the record.

Mr. **Greason**. May I simply note, since we were talking about the appeal a moment ago, that I do have a copy of the results of our appeal, and it reads:

> Denied, institution addressed a nonappealable item. Instead, institution should have followed procedures in March 1982 appeal instructions.

So we are told, really, that it is nonappealable, but we should have appealed it.

Mr. **Blakey**. I think it was appealable under the existing regulations, but not under the letter, and the letter, which I think I have a copy of here, gives instructions that tend to parallel the proposed regulation at that time, as I understand it.

Maybe we ought to have, just so that the record is clear, we ought to have that document——

Mr. **Greason**. I will put that in the record, too.

Mr. **Blakey** [continuing]. For the record and we would appreciate your supplying that.

Mr. **Dean**. I have a couple of questions that I would like to address to the entire panel.

It has been stated by a number of persons that the new regulations would discourage loan collection efforts. Could each of you describe what, if any, changes you intend to make in your collection efforts if the new regulations go into effect as presently written.

Mr. **Richardson**. Well, I don't think that any of the institutions would be prepared to say that if the new regulations went into effect that we would still not do the best that we could to collect on the loans that we now have outstanding.

What it does say, I think that it can have a psychological impact on the staff members of financial aid directors and those staff members who are involved day in and day out in the billing and collection procedure.

It says to them, well, if we do well, we are not going to be able to get any additional funds and if we don't do well, we are not going to get any. So why bother?

I think it is more than that to say that the institution itself would then give up on the collection of the outstanding loans.

Mr. **Stanley**. We have already made some changes in our procedures for reducing defaults and collecting loans. We, in August 1981, went with a new collection agency. Certainly Phillips Colleges, Inc. would not be interested in not performing due-diligence requirements.

One of the reasons is that we still need that money that we can collect put back into the fund so we can help other students, and I don't think it is a situation where you find any school that would come right out and say that they are not willing to collect loans anymore, but I believe my colleague from Maryland stated very clearly some of the problems that you would have with that.

Mr. **Dean**. President Greason, do you want to respond to that question.

Mr. **Greason**. As to whether we would take other steps than we are taking——

Mr. **Dean**. Would you modify your collection efforts if this regulation was allowed to go into effect as presently drawn?

Mr. **Greason**. I think not. I think it fairly effective. And the defaulting 6 percent, I have seen the names and know a number of these former students who are not paying and know some of their problems.

I think it is probably a realistic result and, as I stated, ultimately we do have resort to the courts after we have been humane as long as we reasonably can.

Mr. **Dean**. One other previous witness, Dr. Miller, suggested that Bennett College was withholding the transcript of any student in default until payment was made.

Do your institutions do that now? And if so, how effective is that?

Mr. **Richardson**. Yes, in the case of the Eastern Shore campus, that is indeed the policy. You cannot get a transcript until all outstanding bills to the university are paid.

That is an effective mechanism, but what happens is that the student finds some other way, if it is not directly for graduate school admission, then there are other ways of satisfying the same requirement. Oftentimes this student may have an unofficial transcript that he can present to an employer so the employer accepts that, knowing that the reason he cannot get the official transcript is because of an outstanding loan on NDSL.

I wish also to make one other comment in regards to future efforts or the impact of such a decision on future efforts toward collection.

I think right now that there are many borrowers out there now, alumni of the university, who are saying that I do not wish to have on my conscience that burden of not allowing students now to get loans to get a college education as I did.

And they are trying, with all the power they can, to try to arrange to pay some of this money back. But in fact, if they find out that it is not going to be of any consequence in terms of the student, then I would say that they will change their attitude in that regard.

Mr. **Stanley**. We also withhold transcripts. I don't believe that it is effective, though, in our situation. As I stated, our students come largely from economically disadvantaged situations. Most of our students who do have to drop out of school, that is where your largest number of defaults come from, not graduates, but dropouts.

Dropout would cause some financial problems, and we found it would be my guess, that those students are not trying to attend other institutions and they are trying to gain employment, but the situation is such in Mississippi that the outlook is just not very good for them.

Mr. **Greason**. I might say we, too, withhold transcripts. I think for most of the people in that group, the transcript is not terribly important. I think for the few it is, they have already used it in a sense when they were in good standing and have gained access to graduate school or whatever position it was that that transcript was relevant to.

It is worth doing and continuing to do. I think it is not as effective as some people think it is.

Mr. **Dean**. Did Bowdoin ever have a problem with collections on NDSL's in the past? Has the rate always been 6 percent?

Mr. **Greason**. About that. No, we have always had it.

Mr. **Dean**. Is there anything that your institution is doing that you think could be applied more universally to other institutions to improve their rates?

Mr. **Greason**. No, I have described the process. I think we are fortunate in that we are in the position of being a fairly selective college, admitting about 400 students a year out of over 3,000 applications.

There is a great deal of concern about the general quality of the student as a total person, as well as someone with some intellectual ability. I think there has to be a correlation between that and one's willingness to live through this responsibility that is accepted in taking the loan.

I suspect if you looked at the group of students at Bowdoin who are in default, they would not be terribly different from the groups of students in default at a great variety of colleges and universities.

Mr. **Dean**. Thank you very much.

Mr. **Blakey**. On behalf of the chairman and members of the committee, I would like to thank you for being with us today. There have been several references during this morning's testimony to a list of schools who are being denied an NDSL Federal contribution.

So that we are all operating off the same list, and the record is clear, we have an August 17, 1982, list supplied by the department, entitled "Department of Education, Office of Student Financial Assistance, Report of Institutions Denied NDSL Federal Capital Contribution Because of Failure to Prove Due Diligence for Award Period 1981-1982."

We will enter that in the record as "The Official List of Who is and Who is Not Receiving a National Direct Student Loan Federal Capital Contribution."

[The list referred to follows:]

06/17/82

DEPARTMENT OF EDUCATION
OFFICE OF STUDENT FINANCIAL ASSISTANCE
REPORT OF INSTITUTIONS DENIED NDSL FCC BECAUSE OF FAILURE TO PROVE DUE DILIGENCE FOR AWARD PERIOD 1981-82

ED230084A-4

SERIAL	NAME	CITY	ST
000006	ALABAMA STATE UNIVERSITY	MONTGOMERY	AL
000059	OAKWOOD COLLEGE	HUNTSVILLE	AL
000065	SELMA UNIVERSITY	SELMA	AL
000070	SOUTHERN VOCATIONAL COLLEGE	TUSKEGEE	AL
000072	STILLMAN COLLEGE	TUSCALOOSA	AL
000073	TALLADEGA COLLEGE	TALLADEGA	AL
000077	20TH CENTURY COLLEGE	MOBILE	AL
004934	ADVANCED BEAUTY COLLEGE GOLF LINKS	TUCSON	AZ
000099	ARIZONA COL MED,DENT & LEGAL CAREER	TUCSON	AZ
000134	CENTRAL ARIZONA COLLEGE	COOLIDGE	AZ
000111	DURHAM COLLEGE	PHOENIX	AZ
000114	EASTERN ARIZONA COLLEGE	THATCHER	AZ
000145	PHOENIX INST OF TECHNOLOGY	PHOENIX	AZ
000178	NORTH ARKANSAS CMTY COLLEGE	HARRISON	AR
000181	OUACHITA BAPTIST UNIVERSITY	ARKADELPHIA	AR
005282	SOUTHERN ARK UNIV-EL DORADO BRANCH	EL DORADO	AR
000194	SOUTHERN ARKANSAS UNIVERSITY	MAGNOLIA	AR
004941	ALAMEDA BEAUTY COLLEGE	ALAMEDA	CA
004627	AMERICAN BEAUTY COLLEGE	BELLFLOWER	CA
000224	AMERICAN COL OF PARAMED ARTS & SCI	SANTA ANA	CA
004628	AMERICANA BEAUTY ACADEMY	SAN LEANDRO	CA
004629	ARTIST'S BEAUTY COLLEGE	SACRAMENTO	CA
004636	CALIFORNIA COL OF DENTAL TRAINING	LOS ANGELES	CA
004929	CARMICHAEL BEAUTY COLLEGE	CARMICHAEL	CA
000327	COLLEGE OF ALAMEDA	ALAMEDA	CA
004922	COMPTON BEAUTY COLLEGE	COMPTON	CA
004946	CONTEMPO SCHOOL OF BEAUTY	INGLEWOOD	CA
005048	CORDAY BEAUTY COLLEGE	SANTA CRUZ	CA
000355	CRISS BUSINESS COLLEGE	ANAHEIM	CA
000359	DALENA'S COLLEGE OF BEAUTY	FRESNO	CA
004948	EATON COL MEDICAL ASST PROGRAM	SAN DIEGO	CA
004977	FAIRFIELD BEAUTY ACADEMY	FAIRFIELD	CA
000380	FEDERICO FAIR OAKS COL OF HAIRSTYLI	FAIROAKS	CA
000383	FEDERICO KERN COUNTY COLLEGE OF BEAUTY	BAKERSFIELD	CA
000384	FEDERICO'S NORTH FRESNO BEAUTY COLLEGE	FRESNO	CA
000385	FEDERICOS TULARE COUNTY	VISALIA	CA
004658	GANATE ACADEMY OF COSMETOLOGY	REDWOOD CITY	CA
004950	JOSEPHS SCHOOL OF HAIR DESIGN	NORWALK	CA

DEPARTMENT OF EDUCATION
OFFICE OF STUDENT FINANCIAL ASSISTANCE
REPORT OF INSTITUTIONS DENIED NDSL FCC
BECAUSE OF FAILURE TO PROVE DUE DILIGENCE
FOR AWARD PERIOD 1981-82

SERIAL	NAME	CITY	ST
004232	JOHNSON STATE COLLEGE	JOHNSON	VT
004260	COMPUTER LEARNING CENTER	SPRINGFIELD	VA
005162	FOGGS TECHNICAL INSTITUTE	HANOVER	VA
004274	HAMPTON INSTITUTE	HAMPTON	VA
004316	SMITHDEAL-MASSEY BUSINESS COLLEGE	RICHMOND	VA
004276	TEMPLE SCHOOL	BAILEY'S CROSSROAD	VA
004336	VIRGINIA UNION UNIVERSITY	RICHMOND	VA
004376	KNAPP COLLEGE OF BUSINESS	TACOMA	WA
004389	MR LEE'S BEAUTY SCHOOL-SEATTLE	SEATTLE	WA
004434	YAKIMA VALLEY COMMUNITY COLLEGE	YAKIMA	WA
004439	BLUEFIELD STATE COLLEGE	BLUEFIELD	WV
004444	DAVIS & ELKINS COLLEGE	ELKINS	WV
004457	PARKERSBURG CMTY COL	PARKERSBURG	WV
004463	WEST LIBERTY STATE COLLEGE	WEST LIBERTY	WV
004467	WEST VIRGINIA CAREER COLL-CHARTN	CHARLESTON	WV
004469	WEST VIRGINIA COL OF BEAUTY CULTURE	MARTINSBURG	WV
004504	AMERICAN BEAUTY COLLEGE	MILWAUKEE	WI
004880	AMERICAN BEAUTY COLLEGE	RACINE	WI
004917	AMERICAN BEAUTY COLLEGE-GREEN BAY	GREEN BAY	WI
004484	BELOIT COLLEGE	BELOIT	WI
004487	CARDINAL STRITCH COLLEGE	MILWAUKEE	WI
004884	CITY COLLEGE OF COSMETOLOGY-MILWA	MILWAUKEE	WI
004885	CITY COLLEGE OF COSMETOLOGY-MILWA	MILWAUKEE	WI
004518	MILTON COLLEGE	MILTON	WI
004519	MILWAUKEE AREA TECHNICAL COLLEGE	MILWAUKEE	WI
004527	NORTH CENTRAL TECHNICAL INSTITUTE	WAUSAU	WI
004616	COLLEGE OF THE VIRGIN ISLANDS	SAINT THOMAS	VI

TOTAL NUMBER OF INSTITUTIONS DENIED NDSL FCC
BECAUSE OF FAILURE TO PROVE DUE DILIGENCE - 376

SOURCE: FINAL ALLOCATIONS DATA BASE FOR AWARD PERIOD 1981-82.

PREPARED BY:

ANALYSIS SECTION, CBA
DPPO/OSFA
AUGUST 17, 1982

DEPARTMENT OF EDUCATION
OFFICE OF STUDENT FINANCIAL ASSISTANCE
REPORT OF INSTITUTIONS DENIED NDSL FCC
BECAUSE OF FAILURE TO PROVE DUE DILIGENCE
FOR AWARD PERIOD 1981-82

SERIAL	NAME	CITY	ST
000438	KAY BROWN BEAUTY SCHOOL	LOS ANGELES	CA
004657	KAY MICHAEL SCHOOL OF HAIR DESIGN	HUNTINGTON BEACH	CA
000468	KENNETH'S CLG OF HAIRSTYLING INC	SACRAMENTO	CA
005037	KENNETHS COL HAIRSTYLING	VALLEY	CA
005038	LAKEWOOD BEAUTY COLLEGE	LAKEWOOD	CA
000441	LIEMART PARK BEAUTY COLLEGE	LOS ANGELES	CA
000450	LOS ANGELES CITY COLLEGE	LOS ANGELES	CA
000365	LOS ANGELES CMTY COL DIST EAST LOS ANGELES COLLEGE	MONTEREY PARK	CA
000453	LOS ANGELES PIERCE COLLEGE	WOODLAND HILLS	CA
000455	LOS ANGELES SOUTHWEST COLLEGE	LOS ANGELES	CA
000456	LOS ANGELES TRADE TECHNICAL COLLEGE	LOS ANGELES	CA
000474	MEDICAL TRAINING INSTITUTE	SAN FERNANDO	CA
004668	MORO BEAUTY COLLEGE	GLENDALE	CA
004968	MOUNTAIN VIEW BEAUTY COLLEGE	MOUNTAIN VIEW	CA
004669	MR DOMINIC'S SCH OF HAIR DESIGN	WHITTIER	CA
004963	MTD BUSINESS COLLEGE	HAYWARD	CA
000503	NEWBERRY SCHOOL OF BEAUTY	NORTH HOLLYWOOD	CA
000504	NEWBERRY SCHOOL OF BEAUTY	BURBANK	CA
000505	NEWBERRY SCHOOL OF BEAUTY	CANOGA PARK	CA
000507	NEWBERRY SCHOOL OF BEAUTY	HOLLYWOOD	CA
000509	NEWBERRY SCHOOL OF BEAUTY-PANORAMA	PANORAMA CITY	CA
000510	NORTH ADRIAN'S BEAUTY COLLEGE	MODESTO	CA
000513	NORTHROP UNIVERSITY	INGLEWOOD	CA
000524	PACIFIC COLLEGE OF MED & DENT ASSTS	SAN DIEGO	CA
004957	RANDYS BEAUTY COLLEGE	REDDING	CA
004686	ROBERTO'S COLLEGE OF BEAUTY-SAN JOSE	SAN JOSE	CA
004951	SALINAS BEAUTY COLLEGE	SALINAS	CA
004692	SALVATORES COLLEGE OF HAIR STYLING	SACRAMENTO	CA
000577	SAN JOSE CMTY COLLEGE DISTRICT	SAN JOSE	CA
004695	SANTA CLARA BEAUTY COLLEGE	SANTA CLARA	CA
000597	SCRIPPS COLLEGE	CLAREMONT	CA
000587	SIERRA COLLEGE OF BUSINESS	LOS ANGELES	CA
000616	SOUTHLAND COL OF MED-DENT-LEG CAREE	LOS ANGELES	CA
000617	SOUTHWESTERN COLLEGE	CHULA VISTA	CA
005572	SUZANNES BEAUTY COLLEGE-VERMONT	LOS ANGELES	CA
004953	TOUCH OF BEAUTY COLLEGE	MISSION VIEJO	CA
000635	UNIVERSAL COLLEGE OF BEAUTY	LOS ANGELES	CA
004985	VICTOR VALLEY BEAUTY COLLEGE	VICTORVILLE	CA
000666	VICTOR VALLEY COLLEGE	VICTORVILLE	CA
004986	WAYNES COLLEGE OF BEAUTY-SANTA CRUZ	SANTA CRUZ	CA
000534	WEBSTER CAREER COLLEGE	LOS ANGELES	CA
000676	WEST LOS ANGELES COLLEGE	CULVER CITY	CA
004707	WILLOW GLEN BEAUTY COLLEGE	SAN JOSE	CA
004712	CERTIFIED WELDING SCHOOL INC	DENVER	CO

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REPORT OF INSTITUTIONS DENIED NDSL FCC
BECAUSE OF FAILURE TO PROVE DUE DILIGENCE
FOR AWARD PERIOD 1981-82

SERIAL	NAME	CITY	ST
000725	COLORADO SPRINGS COLLEGE OF BUSINESS INC	COLORADO SPRINGS	CO
004714	LAVONNE'S ACAD OF BEAUTY-ARVADA	ARVADA	CO
004715	LAVONNE'S ACAD OF BEAUTY-DENVER	DENVER	CO
000720	LAVONNE'S ACADEMY OF BEAUTY	THORNTON	CO
000729	NATIONAL CAMERA INC	DENVER	CO
000742	SOUTHERN COLO UNIV OF COSMETOLOGY	PUEBLO	CO
000726	SOUTHERN COLORADO COLLEGE OF BUSINESS	PUEBLO	CO
000750	UNIVERSITY OF COLORADO AT DENVER	DENVER	CO
000743	UNIVERSITY OF SOUTHERN COLORADO	PUEBLO	CO
004717	AMORE INSTITUTE OF HAIR DESIGN INC	WEST HAVEN	CT
000760	BRIARWOOD COLLEGE	SOUTHINGTON	CT
000771	GREATER HARTFORD COMMUNITY COLLEGE	HARTFORD	CT
000775	HOUSATONIC COMMUNITY COLLEGE	BRIDGEPORT	CT
000778	MIDDLESEX COMMUNITY COLLEGE	MIDDLETOWN	CT
000780	MOHEGAN COMMUNITY COLLEGE	NORWICH	CT
000783	NORTHWESTERN CONNECTICUT CMTY COL	WINSTED	CT
000795	SOUTH CENTRAL COMMUNITY COLLEGE	NEW HAVEN	CT
000800	TUNXIS COMMUNITY COLLEGE	FARMINGTON	CT
000819	WESLEY COLLEGE	DOVER	DE
000820	WILMINGTON COLLEGE	NEW CASTLE	DE
004998	BEACON COLLEGE	WASHINGTON	DC
000829	GEORGETOWN SCH OF SCIENCE & ART	WASHINGTON	DC
000841	HOWARD UNIVERSITY	WASHINGTON	DC
000847	SOUTHEASTERN UNIVERSITY	WASHINGTON	DC
000853	WASHINGTON SCHOOL FOR SECRETARIES	WASHINGTON	DC
000858	BAUDER FASHION COLLEGE	MIAMI	FL
000859	BETHUNE COOKMAN COLLEGE	DAYTONA BEACH	FL
000867	CHARRON WILLIAMS COLLEGE	MIAMI	FL
000904	COLLEGE OF BOCA RATON	BOCA RATON	FL
000873	DAYTONA BEACH COMMUNITY COLLEGE	DAYTONA BEACH	FL
000876	EDWARD WATERS COLLEGE	JACKSONVILLE	FL
000879	FLORIDA A & M UNIVERSITY	TALLAHASSEE	FL
004999	FLORIDA CAREER INSTITUTE	MIAMI	FL
000891	GARCES COMMERICIAL COLLEGE	MIAMI	FL
000893	HILLSBOROUGH COMMUNITY COLLEGE	TAMPA	FL

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FOR AWARD PERIOD 1981-82

SERIAL	NAME	CITY	ST
000906	MIAMI-DADE CMTY COLLEGE	MIAMI	FL
000917	PROSPECT HALL COLLEGE	HOLLYWOOD	FL
000926	SANTA FE COMMUNITY COLLEGE	GAINESVILLE	FL
000937	TAMPA TECHNICAL INSTITUTE	TAMPA	FL
000953	ALBANY STATE COLLEGE	ALBANY	GA
000962	ATLANTA COLLEGE MED & DENTAL ASSTS	ATLANTA	GA
000965	ATLANTA UNIVERSITY	ATLANTA	GA
000976	BREWTON PARKER COLLEGE	MOUNT VERNON	GA
001012	INTERDENOMINATIONAL THEOLOGICAL CTR	ATLANTA	GA
001016	MACON JR COLLEGE	MACON	GA
001037	MEADOWS COL OF BUS-COLUMBUS	CCLUMBUS	GA
004734	MEADOWS COLLEGE OF BUS	LAGRANGE	GA
004733	MEADOWS COLLEGE OF BUSINESS	ALBANY	GA
001025	MORRIS BROWN COLLEGE	ATLANTA	GA
001040	RUTLEDGE COLLEGE	ATLANTA	GA
001039	SAVANNAH STATE COLLEGE	SAVANNAH	GA
001044	SPELMAN COLLEGE	ATLANTA	GA
001089	NORTH IDAHO COLLEGE	COEUR D ALENE	ID
001109	BLACKBURN COLLEGE	CARLINVILLE	IL
001134	CONTROL DATA INSTITUTE	CHICAGO	IL
001179	IPPOLITO SCHOOL OF COSMETOLOGY	CHICAGO	IL
001206	LINCOLN TRAIL COLLEGE	OLNEY	IL
001238	NATIONAL COLLEGE OF EDUC-EVANSTON	EVANSTON	IL
001273	SAINT XAVIER COLLEGE	CHICAGO	IL
001283	SHIMER COLLEGE	WAUKEGAN	IL
001285	SOUTHERN ILLINOIS UNIV-CARBONDALE *	CARBONDALE	IL
001298	TRI COUNTY BEAUTY ACADEMY	LITCHFIELD	IL
001120	UNIV OF HEALTH SCIENCES/THE CHICAGO MEDICAL SCHOOL	CHICAGO	IL
001308	UNIVERSITY OF ILLINOIS-MED CENTER	CHICAGO	IL
001310	WABASH VALLEY CMTY COLLEGE	OLNEY	IL
001097	WILFRED ACADEMY OF HAIR AND BEAUTY CULTURE	OAK PARK	IL
001098	WILFRED ACADEMY OF HAIR AND BEAUTY CULTURE	DES PLAINES	IL
005319	TRANSPORT CAREERS INC	GARRETT	IN

DEPARTMENT OF EDUCATION
OFFICE OF STUDENT FINANCIAL ASSISTANCE
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SERIAL	NAME	CITY	ST
001886	LORAS COLLEGE	DUBUQUE	IA
001524	BRYAN INSTITUTE	WICHITA	KS
004755	ELECT COMPUTER PROGRAMMING INST	TOPEKA	KS
001511	FRIENDS BIBLE COLLEGE	HAVILAND	KS
004757	ACADEMY OF BEAUTY INC	LEXINGTON	KY
001577	FUGAZZI BUSINESS COLLEGE	LEXINGTON	KY
001580	KENTUCKY BUSINESS COLLEGE	LEXINGTON	KY
001583	KENTUCKY STATE UNIVERSITY	FRANKFORT	KY
001590	LOUISVILLE SCHOOL OF ART	ANCHORAGE	KY
001632	DRAUGHON BUSINESS COLLEGE	SHREVEPORT	LA
001636	GRAMBLING STATE UNIVERSITY	GRAMBLING	LA
001641	LOUISIANA BUSINESS COLLEGE	MONROE	LA
001669	SOUTHERN UNIVERSITY-A & M COLLEGE	BATON ROUGE	LA
001675	SPENCER DRAUGHON COLLEGE-BATON ROUGE	BATON ROUGE	LA
001698	SAINT JOSEPH'S COLLEGE	NORTH WINDHAM	ME
001721	AWARD BEAUTY SCHOOL	HAGERSTOWN	MD
001726	BOWIE STATE COLLEGE	BOWIE	MD
001732	CHESAPEAKE COLLEGE	WYE MILLS	MD
001734	COLUMBIA UNION COLLEGE	TAKOMA PARK	MD
001737	COPPIN STATE COLLEGE	BALTIMORE	MD
001740	DEL MAR VA BEAUTY ACADEMY	SALISBURY	MD
001751	HAGERSTOWN JR COLLEGE	HAGERSTOWN	MD
001761	MARYLAND INSTITUTE COLLEGE OF ART	BALTIMORE	MD
001766	MOUNT SAINT MARY'S COLLEGE	EMMITSBURG	MD
001780	TRI-STATE BEAUTY ACADEMY	CUMBERLAND	MD
001815	BAY STATE JUNIOR COLLEGE	BOSTON	MA
001820	BERKSHIPE COMMUNITY COLLEGE	PITTSFIELD	MA
001842	CENTRAL NEW ENGLAND COLLEGE OF TECH	WORCHESTER	MA
001846	COLLEGE OF OUR LADY OF ELMS	CHICOPEE	MA

DEPARTMENT OF EDUCATION
OFFICE OF STUDENT FINANCIAL ASSISTANCE
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SERIAL	NAME	CITY	ST
001850	CURRY COLLEGE	MILTON	MA
001878	HOLYOKE COMMUNITY COLLEGE	HOLYOKE	MA
001892	MASSACHUSETTS BAY COMMUNITY COLLEGE	WELLESLEY	MA
001911	NEWBURY JR COLLEGE	BOSTON	MA
001928	R E T S ELECTRONIC SCHOOLS	BOSTON	MA
001931	ROXBURY CMTY COLLEGE	BOSTON	MA
001933	SALEM STATE COLLEGE	SALEM	MA
001947	STONEHILL COLLEGE	NORTH EASTON	MA
001889	UNIVERSITY OF LOWELL	LOWELL	MA
001993	DELTA COLLEGE	UNIVERSITY CENTER	MI
002011	GRAND RAPIDS JR COLLEGE	GRAND RAPIDS	MI
002014	HENRY FORD COMMUNITY COLLEGE	DEARBORN	MI
002034	LEWIS COLLEGE OF BUSINESS	DETROIT	MI
002036	MACOMB COUNTY CMTY COLLEGE CENTER CAMPUS	MT CLEMENS	MI
002051	MUSKEGON BUSINESS COLLEGE	MUSKEGON	MI
002057	NORTHWESTERN MICHIGAN COLLEGE	TRAVERSE CITY	MI
002069	SAGINAW VALLEY STATE COLLEGE	UNIVERSITY CENTER	MI
002077	SOUTHWESTERN MICHIGAN COLLEGE	DOWAGIAC	MI
005033	GLAMOUR BEAUTY ACADEMY	MINNEAPOLIS	MN
002161	ITASCA CMTY COLLEGE	GRAND RAPIDS	MN
002208	SOUTHWEST STATE UNIVERSITY	MARSHALL	MN
002231	CLARKE COLLEGE	NEWTON	MS
002235	DELTA STATE UNIVERSITY	CLEVELAND	MS
002236	DRAUGHON BUSINESS COLLEGE	JACKSON	MS
002245	JACKSON STATE UNIVERSITY	JACKSON	MS
002247	MARY HOLMES COLLEGE	WEST POINT	MS
002257	MISSISSIPPI VALLEY STATE UNIVERSITY	ITTA BENA	MS
002255	MISSISSIPPI UNIVERSITY FOR WOMEN	COLUMBUS	MS
002266	RUST COLLEGE	HOLLY SPRINGS	MS
002269	TOUGALOO COLLEGE	TOUGALOO	MS
004781	BRYAN INSTITUTE	WEBSTER GROVES	MO
004782	ELECT COMPUTER PROGRAMMING INST	KANSAS CITY	MO
004783	KIRKWOOD BEAUTY COLLEGE	KIRKWOOD	MO
002347	MINERAL AREA COLLEGE	FLAT RIVER	MO
002351	MISSOURI SCHOOL FOR DOCTORS ASSISTANTS	SAINT LOUIS	MO

DEPARTMENT OF EDUCATION
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SERIAL	NAME	CITY	ST
002372	SAINT LOUIS CONSERVATORY OF MUSIC	SAINT LOUIS	MO
005062	VATTEROTT AND SULLIVAN EDUC CENTERS	ST LOUIS	MO
002421	MILES COMMUNITY COLLEGE	MILES CITY	MT
002445	DANA COLLEGE	BLAIR	NE
002485	CLARK COUNTY COMMUNITY COLLEGE	LAS VEGAS	NV
002487	FASHION MERCHANDISING INST OF NV	LAS VEGAS	NV
002495	TRUCKEE MEADOWS COMMUNITY COLLEGE	SPARKS	NV
002526	WHITE PINES COLLEGE	CHESTER	NH
002535	BRICK COMPUTER SCIENCE INSTITUTE	BRICK	NJ
002539	CALDWELL COLLEGE	CALDWELL	NJ
002556	ELEC COMPUTER PROG INST-PATERSON	PATERSON	NJ
002566	GLASSBORO STATE COLLEGE	GLASSBORO	NJ
002573	JOSEPH PATERNO COL OF BEAUTY CULTUR	DOVER	NJ
002586	MONTCLAIR STATE COLLEGE	UPPER MONTCLAIR	NJ
002607	SAWYER SCHOOL-CLIFTON	CLIFTON	NJ
002608	SAWYER SCHOOL-ELIZABETH	ELIZABETH	NJ
002642	EASTERN NEW MEXICO UNIV-ROSWELL	ROSWELL	NM
005078	VO-TECH INSTITUTE INC	ALBUQUERQUE	NM
002662	ADELPHI BUSINESS SCHOOL-MINEOLA	MINEOLA	NY
002680	APEX TECHNICAL SCHOOL	NEW YORK CITY	NY
005079	ATLAS SCHOOL OF BEAUTY CULTURE INC	NEW YORK	NY
002722	CAZENOVIA COLLEGE	CAZENOVIA	NY
002781	EASTERN SCHOOL FOR PHYSICIANS AIDES	NEW YORK CITY	NY
002787	ELIZABETH SETON COLLEGE	YONKERS	NY
002797	FORDHAM UNIVERSITY	BRONX	NY
002801	FULTON-MONTGOMERY COMMUNITY COLLEGE	JOHNSTOWN	NY

DEPARTMENT OF EDUCATION
OFFICE OF STUDENT FINANCIAL ASSISTANCE
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FOR AWARD PERIOD 1981-82

SERIAL	NAME	CITY	ST
002802	GENESSEE COMMUNITY COLLEGE	BATAVIA	NY
002808	HARRIMAN COLLEGE	HARRIMAN	NY
002812	HERKIMER COUNTY COMMUNITY COLLEGE	HERKIMER	NY
002826	JEFFERSON COMMUNITY COLLEGE	WATERTOWN	NY
002864	MIDWAY BEAUTY SCHOOL	FOREST HILLS	NY
002906	MIDWAY-PARIS BEAUTY SCHOOL	BRONX	NY
002872	MONROE BUSINESS INSTITUTE	BRONX	NY
002880	NEW YORK BUSINESS SCHOOL	NEW YORK	NY
002883	NEW YORK INST OF DIETETICS	NEW YORK	NY
004804	NIAGARA HAIR STYLING & BTY CULTURE INC	NIAGARA UNIVERSITY	NY
002903	ORANGE COUNTY COMMUNITY COLLEGE	MIDDLETOWN	NY
002936	ROBERT FIANCE BEAUTY SCHOOL	NEW YORK	NY
002949	SAINT FRANCIS COLLEGE	BROOKLYN	NY
002958	SARAH LAWRENCE COLLEGE	BRONXVILLE	NY
002961	SCHENECTADY COUNTY COMMUNITY COL	SCHENECTADY	NY
003010	TOURO COLLEGE	NEW YORK CITY	NY
003016	UNION COLLEGE	SCHENECTADY	NY
003017	UNION THEOLOGICAL SEMINARY	NEW YORK CITY	NY
002877	VEEB NASSAU COUNTY SCH OF PRACTICAL NURSING	UNIONDALE	NY
003025	VILLA MARIA COLLEGE OF BUFFALO	BUFFALO	NY
003035	WILFRED ACADEMY	PATCHOGUE	NY
003036	WILFRED ACADEMY	HAUPPAUGE	NY
003060	BARBER-SCOTIA COLLEGE	CONCORD	NC
003063	BENNETT COLLEGE	GREENSBORO	NC
003094	ELIZABETH CITY STATE UNIVERSITY	ELIZABETH CITY	NC
003064	HAMILTON COLLEGE	CHARLOTTE	NC
003113	JOHNSON C SMITH UNIVERSITY	CHARLOTTE	NC
003117	KING'S COLLEGE-RALEIGH	RALEIGH	NC
003119	LAFAYETTE COLLEGE	FAYETTEVILLE	NC
003123	LIVINGSTONE COLLEGE	SALISBURY	NC
003138	NORTH CAROLINA A&T STATE UNIV	GREENSBORO	NC
003140	NORTH CAROLINA SCHOOL OF THE ARTS	WINSTON SALEM	NC
003093	RALEIGH SCH OF DATA PROCESSING	RALEIGH	NC
003172	SOUTHWESTERN TECHNICAL COLLEGE	SYLVA	NC
003274	DEFIANCE COLLEGE	DEFIANCE	OH
003301	KETTERING COLLEGE OF MEDICAL ART	DAYTON	OH
003307	MALONE COLLEGE	CANTON	OH
003338	OHIO STATE BEAUTY ACADEMY	LIMA	OH
003342	OHIO UNIVERSITY	ATHENS	OH
003318	SOUTHWESTERN COLLEGE OF BUSINESS	WEST CARROLLTON	OH

DEPARTMENT OF EDUCATION
OFFICE OF STUDENT FINANCIAL ASSISTANCE
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FOR AWARD PERIOD 1981-82

SERIAL	NAME	CITY	ST
003428	NORTHEASTERN OKLAHOMA STATE UNIV	TAHLEQUAH	OK
003430	NORTHERN OKLAHOMA COLLEGE	TONKAWA	OK
003469	BLUE MOUNTAIN COMMUNITY COLLEGE	PENDLETON	OR
003491	MOUNT HOOD COMMUNITY COLLEGE	GRESHAM	OR
003511	SOUTHWESTERN OREGON COMMUNITY COL	COOS BAY	OR
004835	AMERICAN ACADEMY OF BROADCASTING	PHILADELPHIA	PA
003550	CALIFORNIA STATE COLLEGE	CALIFORNIA	PA
003558	CHEYNEY STATE COLLEGE	CHEYNEY	PA
003566	COMMUNITY COLLEGE OF DELAWARE CO	MEDIA	PA
003578	EAST STROUDSBURG STATE COLLEGE	EAST STROUDSBURG	PA
003612	KEYSTONE JR COLLEGE	LA PLUME	PA
003614	KUTZTOWN STATE COLLEGE	KUTZTOWN	PA
003617	LACKAWANNA JR COLLEGE	SCRANTON	PA
003627	LINCOLN UNIVERSITY	LINCOLN UNIVERSITY	PA
003658	NORTHEASTERN CHRISTIAN JR COLLEGE	VILLANOVA	PA
003664	PENNSYLVANIA COL OF PODIATRIC MED	PHILADELPHIA	PA
003672	PHILA COLLEGE OF ART	PHILADELPHIA	PA
003679	PINEBROOK JR COLLEGE	COOPERSBURG	PA
003694	SAINT FRANCIS COLLEGE	LORETTO	PA
003700	SAWYER SCHOOL-PITTSBURGH	PITTSBURGH	PA
003707	SWARTHMORE COLLEGE	SWARTHMORE	PA
004586	BAYAMON CENTRAL UNIVERSITY	BAYAMON	PR
004588	CARIBBEAN UNIVERSITY COLLEGE	BAYAMON	PR
005172	ELECTRONIC DATA PROCESSING COLLEGE OF P R INC	HATO REY	PR
004594	FUNDACION EDUCATIVA ANA G MENDEZ	RIO PIEDRAS	PR
004615	WORLD UNIVERSITY II-A	HATO REY	PR
003753	ROGER WILLIAMS COLLEGE	BRISTOL	RI
003755	SAWYER SCHOOL	PROVIDENCE	RI
003770	CLAFLIN COLLEGE	ORANGEBURG	SC
003803	RICE COLLEGE	COLUMBIA	SC
003789	RUTLEDGE COLLEGE	GREENVILLE	SC
003804	RUTLEDGE COLLEGE	SPARTANBURG	SC

DEPARTMENT OF EDUCATION
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BECAUSE OF FAILURE TO PROVE DUE DILIGENCE
FOR AWARD PERIOD 1981-82

SERIAL	NAME	CITY,	ST
003805	SOUTH CAROLINA STATE COLLEGE	ORANGEBURG	SC
003806	SOUTHEASTEN BUSINESS COLLEGE	CHARLESTON	SC
003808	SPARTANBURG METHODIST COLLEGE	SPARTANBURG	SC
003814	VOORHEES COLLEGE	DENMARK	SC
005129	STENOTYPE INST OF SOUTH DAKOTA	SIOUX FALLS	SD
003849	AMERICAN BAPTIST THEOLOGICAL SEM	NASHVILLE	TN
003862	CLEVELAND STATE COMMUNITY COLLEGE	CLEVELAND	TN
003871	DRAUGHONS JR COLLEGE OF BUSINESS	NASHVILLE	TN
003872	DYERSBURG STATE COMMUNITY COLLEGE	DYERSBURG	TN
005131	ENRII SCH OF BTY CULTURE-PRESLEY	MEMPHIS	TN
003879	FISK UNIVERSITY	NASHVILLE	TN
003914	MARSHALL COLLEGE	MEMPHIS	TN
003908	MORRISTOWN COLLEGE	MORRISTOWN	TN
003929	TENNESSEE TEMPLE COLLEGE	CHATTANOOGA	TN
003950	ALLSTATE BUSINESS COLLEGE	DALLAS	TX
003960	AUSTIN CMTY COL	AUSTIN	TX
003967	BISH MATHIS INSTITUTE	LONGVIEW	TX
003976	CENTRAL TEXAS COLLEGE	KILLEEN	TX
003977	CENTRAL TEXAS COMMERCIAL COLLEGE	BROWNWOOD	TX
003979	CHENIER BUSINESS COLLEGE	BEAUMONT	TX
004869	DALLAS COURT REPORTING COLLEGE	DALLAS	TX
003978	FORT WORTH COURT REPORTING COLLEGE	FORT WORTH	TX
004029	GULF COAST BIBLE COLLEGE	HOUSTON	TX
004036	HOUSTON BAPTIST UNIVERSITY	HOUSTON	TX
004042	INDUSTRIAL TRADE SCHOOL OF DALLAS	DALLAS	TX
004063	MASSEY BUSINESS COLLEGE	NACOGDOCHES	TX
004093	PARIS JR COLLEGE	PARIS	TX
004096	PAUL QUINN COLLEGE	WACO	TX
004098	PRAIRIE VIEW A & M UNIVERSITY	PRAIRIE VIEW	TX
004108	SAINT MARY'S UNIVERSITY	SAN ANTONIO	TX
004123	SOUTHWESTERN ASSEMBLIES OF GOD COL	WAXAHACHIE	TX
004130	SUL ROSS STATE UNIVERSITY	ALPINE	TX
004143	TEXAS INSTITUTE, INC.	DALLAS	TX
004145	TEXAS SOUTHERN UNIVERSITY.	HOUSTON	TX
004177	THE UNIVERSITY OF TEXAS-MEDICAL BRANCH	GALVESTON	TX
004118	UNIVERSITY OF HOUSTON DOWNTOWN CAMP	HOUSTON	TX
004903	VOUGUE BEAUTY COLLEGES-1,2&3	WICHITA FALLS	TX

DEPARTMENT OF EDUCATION
OFFICE OF STUDENT FINANCIAL ASSISTANCE
NOTIFICATION OF NATIONAL APPEAL PANEL ACTION
FOR FEDERAL STUDENT FINANCIAL AID PROGRAMS
FOR THE AWARD PERIOD 1982-1983 (JULY 1, 1982 - JUNE 30, 1983)

DATE: May 10, 1982

FINANCIAL AID ADMINISTRATOR
Bowdoin College
Brunswick, ME 04011

SERIAL # 001683
ENTITY # 1010215213A1
TYPE / CONTROL Private Other

NATIONAL DIRECT STUDENT LOAN	APPROVED ---- PARTIALLY APPROVED ---- DENIED [✓ X] ----
SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS INITIAL YEAR	APPROVED ---- PARTIALLY APPROVED ---- DENIED ----
SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS CONTINUING YEAR	APPROVED ---- PARTIALLY APPROVED ---- DENIED ----
COLLEGE WORK STUDY	APPROVED ---- PARTIALLY APPROVED ---- DENIED ----

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EXPLANATION OF PARTIAL APPROVAL / DENIAL:

Denied- Institution addressed a non-appealable item. Instead, institution should have followed procedures in March 1982 Appeal instructions.

DEPARTMEN[illegible] EDUCATION
OFFICE OF STUDENT [illegible]ANCIAL ASSISTANCE
NOTIFICATION OF TENTATIVE FUNDING LEVELS
FOR THE CWS, NDSL AND/OR SEOG PROGRAMS
FOR THE AWARD PERIOD JULY 1, 1982 THROUGH JUNE 30, 1983

NAME AND ADDRESS OF INSTITUTION		SERIAL NUMBER	ENTITY NUMBER
BOWDOIN COLLEGE		001683	1010215213A1
		DATE	
BRUNSWICK	ME 04011	04/01/82	01

60% default rate!

THE TENTATIVE FUNDING LEVELS SHOWN BELOW WERE CALCULATED IN ACCORDANCE WITH DATA CONTAINED IN YOUR INSTITUTION'S 1980-81 FISCAL-OPERATIONS REPORT/ 1982-83 APPLICATION AND WITH PROCEDURES CONTAINED IN THE 1) HIGHER EDUCATION ACT OF 1965, AS AMENDED, 2) FISCAL YEAR 1982 CONTINUING RESOLUTION, AND 3) NOTICE OF PROPOSED RULEMAKING OF JANUARY 7, 1982 AS AMENDED BY PUBLIC COMMENT.

PROGRAM	TENTATIVE ALLOCATION
COLLEGE WORK STUDY - FEDERAL SHARE	$116,937
NATIONAL DIRECT STUDENT LOAN - LEVEL OF EXPENDITURE	$211,870
NATIONAL DIRECT STUDENT LOAN - FEDERAL CAPITAL CONTRIBUTION	$0
SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS - INITIAL YEAR	$47,793
SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS - CONTINUING YEAR	$88,758

THESE ARE TENTATIVE FUNDING LEVELS ONLY. HOWEVER FINAL ALLOCATIONS, WHICH WILL BE SHOWN IN AN AUTHORIZATION LETTER LATER THIS SPRING, SHOULD CLOSELY RESEMBLE THESE AMOUNTS.

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04/01                                                      INSTITUTION    'ORKSHEET
 STAT    .ME:  MAINE                                      CWS TENTATIV.  .NDING 1982-83                                    PAGE NO.

(01) BOWDOIN COLLEGE

     BRUNSWICK                    ME  04011

(02) 001883                                            | (21) STATE HOLD HARMLESS LEVEL                                  $5,282,187.0

(03) 10102152I3A1                                      | (22) INSTITUTION STATE FAIR SHARE                                   $268,372

(04) CWS REQUEST                              $428,000 | (23) STATE SHORTFALL OF CWS FUNDS                                  $133,372

(05) CONDITIONAL GUARANTEE                    $133,000 | (24) STATE TOTAL OF SHORTFALLS                                   $1,055,729

(06) STATE PERCENTAGE FUNDABLE              86.6205000 | (25) RELATIVE STATE SHORTFALL OF CWS FUNDS                         0.1263317

(07) ADJUSTED CONDITIONAL GUARANTEE           $116,937 | (26) STATE TOTAL OF CWS CONDIT''NAL GUARANTEES                   $5,282,150

(08) AVERAGE UNDERGRADUATE TUITION & FEES       $5,684 | (27) STATE TOTAL OF FUNDS AVAILABLE FOR SHORTFALLS                        $0

(09) AVERAGE UNDERGRADUATE TIME IN ATTENDENCE     9.00 | (28) STATE INCREASE TO CWS ADJUSTED COND GUAR                             $0

(10) AVERAGE UNDERGRADUATE LIVING COST          $3,200 | (29) ADJUSTED CONDITIONAL GUAR AND STATE INCREASE                 $116,937

(11) AVERAGE COST PER UNDERGRADUATE             $8,884 | (37) NATION TOT FUNDS AVAIL TO MEET CWS SHORTFALLS                       $0

(12) AVERAGE GRADUATE TUITION & FEES                $0 | (39) CWS FUNDING LEVEL                                             $116,937

(13) AVERAGE GRADUATE TIME IN ATTENDENCE          9.00

(14) AVERAGE GRADUATE LIVING COST               $3,200

(15) AVERAGE COST PER GRADUATE                  $3,200

(16) UNDERGRADUATES SELF HELP NEED        $1,228,213.0

(17) GRADUATES SELF HELP NEED                     $0.0

(18) SELF HELP NEED                       $1,228,213.0

(19) STATE TOTAL SELF HELP NEED          $24,173,994.7

(20) RELATIVE STATE NEED                     0.0508072
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04/0
 STA    ANE:  MAINE                                              INSTITUTIC    WORKSHEET
                                                                 NDSL TENTAT   FUNDING 1982-83                                  PAGE N.    2
(01) BOWDOIN COLLEGE

     BRUNSWICK                  ME  04011

(02) 001683                                                    | (26) STATE TOTAL SELF HELP NEED                          $22,995,669.6

(03) 1010215213A1                                              | (27) RELATIVE STATE NEED - LOE                               0.0534106

(04) LOE REQUEST                                   $1,236,151  | (28) STATE HOLD HARMLESS LEVEL                             $1,662,606

(05) FCC REQUEST                                     $905,466  | (29) STATE TOTAL OF FUNDS AVAILABLE - LOE                 $5,527,485

(06) CONDITIONAL GUARANTEE - LOE                     $211,570  | (30) INSTITUTIONS STATE FAIR SHARE - LOE                    $295,226

(07) PROJECTED COLLECTIONS                           $235,876  | (31) INSTITUTIONS STATE SHORTFALL - LOE                      $57,978

(08) REIMBURSEMENT - CANCELLATION TEACHING/MIL         $1,372  | (32) STATE TOTAL OF SHORTFALLS - LOE                      $1,095,184

(09) TOTAL NEW CAPITAL REQUIRED                            $0  | (33) INSTITUTION RELATIVE STATE SHORTFALL - LOE             0.0529390

(10) CONDITIONAL GUARANTEE - FCC                           $0  | (34) STATE TOTAL OF ADJUSTED COND GUARANTEE-FCC           $1,662,631

(11) STATE PERCENT FUNDABLE OF ITEM 10              98.930000  | (35) STATE TOTAL OF FED FUNDS AVAIL FOR SHORTFALL                 $0

(12) ADJUSTED CONDITIONAL GUARANTEE - FCC                $0.0  | (36) STATE INCREASE TO ADJUSTED COND GUAR FCC                     $0

(13) DEFAULT RATE                                        6.02  | (37) STATE INCREASE TO CONDITIONAL GUARANTEE LOE                 $0

(14) FCC WITHHELD DUE TO HIGH DEFAULT RATE                 $0  | (38) CONDITIONAL GUARANTEE & STATE INCREASE-LOE            $211,570

(15) AVERAGE UNDERGRADUATE TUITION AND FEES            $5,684  | (39) CONDITIONAL GUARANTEE & STATE INCREASE-FCC                  $0

(16) AVERAGE UNDERGRADUATE TIME IN ATTENDANCE            9.00  | (47) NATION TOT OF FED FUNDS FOR SHORTFALLS                    $0.0

(17) AVERAGE UNDERGRADUATE LIVING COST                 $3,200  | (50) NDSL LEVEL OF EXPENDITURES                             $211,570

(18) AVERAGE COST PER UNDERGRADUATE                    $8,884  | (51) NDSL FEDERAL CAPITAL CONTRIBUTION                           $0

(19) AVERAGE GRADUATE TUITION AND FEES                     $0

(20) AVERAGE GRADUATE TIME IN ATTENDANCE                 9.00

(21) AVERAGE GRADUATE LIVING COST                      $3,200

(22) AVERAGE COST PER GRADUATE STUDENT                 $3,200

(23) UNDERGRADUATE SELF HELP NEED                 $1,228,213.0

(24) GRADUATE SELF HELP NEED                             $0.0

(25) SELF HELP NEED                               $1,228,213.0
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04/0                                                 INSTITUTIO   WORKSHEET
 STA    AME:  MAINE                                 SEOG TENTAT.  FUNDING 1982-83                                      PAGE NO    3
(01) BOWDOIN COLLEGE

     BRUNSWICK                  ME  04011                       | (22) STATE HOLD HARMLESS LEVEL                                 $3,816,116

(02) 001683                                                     | (23) INSTITUTION STATE FAIR SHARE                                $259,455

(03) 10102152I3A1                                               | (24) INSTITUTION STATE SHORTFALL                                  $78,788

(04) INITIAL YEAR REQUEST                             $408,660  | (25) RELATIVE STATE SHORTFALL                                   0.0935125

(05) CONTINUING YEAR REQUEST                          $758,940  | (26) STATE TOTAL OF CONDITIONAL GUARANTEES                     $3,816,097

(06) SEOG CONDITIONAL GUARANTEE                       $180,667  | (27) STATE TOTAL OF FUNDS AVAILABLE FOR SHORTFALL                     $0

(07) STATE PERCENTAGE FUNDABLE                      75.5824000  | (28) STATE INCREASE TO CONDITIONAL GUARANTEE                          $0

(08) ADJUSTED SEOG CONDITIONAL GUARANTEE              $136,552  | (29) CONDITIONAL GUARANTEE & STATE INCREASE                     $136,552

(09) AVERAGE UNDERGRAD TUITION & FEES                   $5,684  | (37) NAT TOT FUNDS AVAIL FOR SHORTFALL                              $0.0

(10) AVERAGE UNDERGRADUATE TIME IN ATTENDANCE             9.00  | (39) SEOG FUNDING LEVEL - IY                                     $47,793

(11) AVERAGE UNDERGRADUATE LIVING COST                  $3,200  | (40) SEOG FUNDING LEVEL - CY                                     $88,758

(12) AVERAGE COST PER UNDERGRADUATE                     $8,884  | (41) TOTAL SEOG FUNDING LEVEL                                   $136,551

(13) 75% OF GROSS COST                              $4,117,734

(14) GROSS EXPECTED FAMILY CONTRIBUTION             $2,043,535

(15) PELL AWARDS                                      $235,251

(16) DERIVED SSIGS                                     $38,613

(17) SSIG %                                          52.144700

(18) INSTITUTION GRANTS AND SCHOLARSHIPS (25%)        $236,967

(19) SEOG NEED                                    $1,563,368.0

(20) STATE TOTAL SEOG NEED                       $22,994,245.0

(21) RELATIVE STATE NEED                             0.0679895
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Mr. **Greason**. May I just ask a question?

Mr. **Blakey**. Yes.

Mr. **Greason**. Bowdoin, I don't believe, is on that list because we don't have a high default rate.

Mr. **Blakey**. That is right.

Mr. **Greason**. On the other hand, we are not getting the FCC money.

Mr. **Blakey**. We are requesting from the department, in addition to this list, which only includes those people, as you indicate, who are being denied one because their default rate exceeds 25 percent, or whatever due diligence means under their terminology now.

We will have to get another list to see whether or not there are institutions other than Bowdoin College who are in the situation that you are in.

Mr. **Stanley**. Sir, I would be interested to find an understanding of why they would title this paper "A List of Institutions Who Did Not Follow Due Diligence," when, in fact, they took due diligence out of the regulations.

Mr. **Blakey**. I was, as you are, struck by the reference and we will pursue that with the department as well.

If there are no further questions, and I guess I have the authority to do it, we will recess this hearing.

[Whereupon, at 12:40 p.m., the committee was adjourned.]

[Additional information for the record follows:]

Governors State University Park Forest South, Illinois 60466 312/534-5000

The President's Office
Leo Goodman-Malamuth II

NATIONAL DIRECT STUDENT LOAN REGULATIONS
FISCAL YEAR 1983

Testimony of Dr. Leo Goodman-Malamuth, President, Governors State University, Park Forest, Illinois. Submitted to the House Subcommittee on Post-Secondary Education August 18, 1983.

Mr. Chairman, and Members of the Committee:

I am writing to express the concerns of my University and its students in regards to the proposed National Direct Student Loan Regulations.

I believe the central issue facing the subcommittee is, "Can the current and proposed NDSL regulations be applied fairly and equitably to all higher education institutions so that student opportunities to enroll in higher education are not limited on the basis of institutional accessibility or cost." From the perspective of my institution, the NDSL cannot be applied equitably nor is it a cost-effective program for the government or students.

Governors State University, an upper-division university, is located 35 miles south of downtown Chicago enrolling 5,000 students. The University shares many common characteristics of institutions with high NDSL default rates. Our students are older; average age is 37. A quarter to a third of our

STUDENTS ARE MINORITIES. NEARLY ALL OF OUR STUDENTS COMMUTE TO THE CAMPUS FROM COMMUNITIES IN THE METROPOLITAN AREA. THESE CHARACTERISTICS ARE SHARED BY OTHER CHICAGO AREA INSTITUTIONS THAT ARE INELIGIBLE FOR NDSL FUNDING IN 1982-83. IN FACT THE COST OF HIGHER EDUCATION ATTENDANCE WILL INCREASE SIGNIFICANTLY FOR FINANCIALLY NEEDY STUDENTS BY VIRTUE OF EXCLUDING THE CHICAGO CITY COLLEGES AND THE ONLY TWO STATE UNIVERSITIES SOUTH OF DOWNTOWN CHICAGO, CHICAGO STATE UNIVERSITY AND GOVERNORS STATE UNIVERSITY, FROM THE NDSL PROGRAM. MINORITY STUDENTS WILL BE PARTICULARLY AFFECTED BY THE CUTOFF OF NDSL LOANS TO THESE INSTITUTIONS. IT IS LIKELY THAT THE EFFECT OF CURTAILING THE NUMBER OF INSTITUTIONS ELIGIBLE TO AWARD NDSL LOANS WILL EITHER DISENFRANCHISE QUALIFIED STUDENTS IN THE CHICAGO AREA WHO MUST COMMUTE TO A HIGHER EDUCATION INSTITUTION OR RELOCATE OUTSIDE OF THEIR REGION TO ATTEND AN INSTITUTION THAT CAN AWARD NDSL LOANS. THE LATTER, HOWEVER REASONABLE, SEEMS LIKE AN UNNECESSARILY EXPENSIVE MEANS TO FACILITATE HIGHER EDUCATION ATTENDANCE.

SINCE THE INCEPTION OF GOVERNORS STATE UNIVERSITY IN 1972, NEARLY 1,500 GSU STUDENTS HAVE BORROWED OVER $3,000,000 FROM THE NDSL PROGRAM. FOR THE FIRST TIME IN THE UNIVERSITY'S SHORT HISTORY IT FACES A CUTOFF OF FEDERAL CAPITAL CONTRIBUTIONS TO THE NDSL PROGRAM; OUR DEFAULT RATE CALCULATION FOR 1980-1981 IS 29 PERCENT. INDEED, WE ARE CONCERNED ABOUT THE EFFECT THE CUTOFF WILL HAVE ON OUR CURRENT STUDENTS. FURTHERMORE, WE ARE CONCERNED ABOUT THE EFFECT A CUTOFF IN FEDERAL CAPITAL CONTRIBUTIONS WILL HAVE ON THE UNIVERSITY'S ABILITY TO SERVE THE ECONOMICALLY DEPRIVED SOUTHERN HALF OF THE CHICAGO METROPOLITAN AREA, which is troubled by rising unemployment and poverty. It is a goal of my administration that GSU remain eligible for NDSL funding, including increasing the funds available from loan collections. However, without some additional consideration to the reasons for high default rates reflected in NDSL funding policies, I am afraid Governors State University will be unable to ever reenter the program. Therefore, let me propose some policies for your consideration that could improve the equity of the existing guidelines and reduce the high default rate in the NDSL program.

First, there ought to be an appeals process for institutions serving a high percentage of urban commuter and minority students. These variables not only correlate highly with high default rates but also with high need. This appeals route should be based upon an institution successfully demonstrating implementation of a strong collections effort as measured against due diligence guidelines.

Second, the concept of due diligence needs to be broadened because it doesn't go far enough in insuring the success of the NDSL program. There is not a lending institution in my region that would loan thousands of dollars without a credit check. While I am sensitive to the plight of dependent students in this regard, the average age of students at GSU is 37 and our students by and large have an established credit record which should be reviewed if the government's concern is the collection of borrowed funds.

THE CONCEPT OF DUE DILIGENCE IN FEDERAL LENDING PROGRAMS SHOULD RECOGNIZE THAT A GOOD COLLECTIONS PROGRAM STARTS BEFORE YOU MAKE THE LOAN. AT GSU WE HAVE GONE BEYOND THE DUE DILIGENCE GUIDELINES BY HOLDING FACE TO FACE PRE-LOAN CONFERENCES ANNUALLY WITH ALL BORROWERS. AND PRIOR TO RECEIVING FUNDS, WE REQUIRE ALL LOAN RECIPIENTS TO SIGN THE "RIGHT AND RESPONSIBILITIES" STATEMENT THAT THE GUIDELINES REQUIRE ONLY AT THE EXIT INTERVIEW.

ONCE A LOAN MOVES TO REPAYMENT STATUS THE DUE DILIGENCE GUIDELINES REQUIRE THAT SPECIFIC COLLECTION PROCEDURES BE FOLLOWED:

1) THAT 15 DAY REMINDER NOTICES BE SENT 45, 60, AND 75 DAYS AFTER A LOAN IS IN REPAYMENT STATUS; AND
2) THAT THE OTHER PROCEDURES MAY BE SHORTCUT WHENEVER IT BECOMES APPARENT THAT THE BORROWER IS NOT GOING TO REPAY THE LOAN.

HOWEVER, ONCE APPARENT THAT THE LOAN IS NOT GOING TO BE REPAID, THE REGULATIONS REQUIRE WE HANG ONTO THE WORTHLESS PAPER UNTIL THE LOAN BECOMES TWO YEARS PAST DUE. WE CAN AND HAVE TAKEN LEGAL ACTION AGAINST STUDENTS IN DEFAULT WHICH CAN BRING SOME RELIEF DURING THIS PERIOD. BUT IN ORDER FOR THIS COLLECTION EFFORT TO BE EFFECTIVE EITHER THE INSTITUTION SHOULD BE ABLE TO SHARE LOAN INFORMATION WITH CREDIT BUREAUS OR THE INSTITUTION SHOULD ASSIGN THE LOAN TO THE FEDERAL GOVERNMENT AS SOON AS DEFAULT IS APPARENT. OTHERWISE YEARS MAY PASS, DEBTS MAY ACCUMULATE AND COLLECTION IN FULL OF MONEY DUE BECOMES MORE UNLIKELY.

THE PROBLEM OF NOT PROMPTLY ASSIGNING BAD DEBTS TO THE FEDERAL GOVERNMENT IS MOST APPARENT AS IT APPLIES TO LOAN DEFAULTS BY CITIZENS OF A FOREIGN COUNTRY. IN THIS REGARD, COLLECTING ON LOANS TO "PERMANENT RESIDENTS", GOVERNORS STATE UNIVERSITY HAS SOUGHT THE ASSISTANCE OF THE DEPARTMENT OF EDUCATION, THE U.S. CONGRESS, AND THE GENERAL ACCOUNTING OFFICE.

CURRENTLY, IN OUR DEFAULT RATE CALCULATIONS ARE 58 LOANS IN REPAYMENT STATUS TO PERMANENT RESIDENTS OR RESIDENT ALIENS. OF THOSE 58, 55 ARE DELINQUENT. THESE LOANS TOTAL $244,319 OF WHICH $234,048 AT THIS POINT APPEAR UNCOLLECTABLE. IT IS NOT THAT WE HAVE NOT TAKEN STEPS TO COLLECT FROM THESE STUDENTS; WE HAVE. WITH 95 PERCENT OF NDSL LOANS TO PERMANENT RESIDENTS IN REPAYMENT STATUS BEING DELINQUENT, WE CAN ILLAFFORD TO BE LACKADAISICAL IN COLLECTING ON THESE LOANS IF WE AIM TO REDUCE OUR DEFAULT RATE. HOWEVER, MANY PERMANENT RESIDENTS RETURN TO THEIR FOREIGN COUNTRIES AFTER COMPLETING THEIR DEGREES OR THEY ARE NOT PERMITTED TO WITHDRAW U.S. CURRENCY FROM THEIR HOMELAND IF THEY ARE NO LONGER A FULL-TIME STUDENTS. QUITE FRANKLY, GOVERNORS STATE UNIVERSITY AND OTHER UNIVERSITIES NEED SOME RELIEF IN THE FORM OF BEING ABLE TO ASSIGN DELINQUENT LOANS TO PERMANENT RESIDENTS TO THE FEDERAL GOVERNMENT AS SOON AS THEY ARE DELINQUENT, NOT TWO YEARS LATER.

PERMIT ME TO ILLUSTRATE THE PROBLEM. A NIGERIAN STUDENT WHO WAS A PERMANENT RESIDENT, RECEIVED $9,670 IN NDSL FUNDS WHILE ENROLLED AT GOVERNORS STATE UNIVERSITY. WE FOLLOWED DUE DILIGENCE PROCEDURES IN NOTIFYING THE STUDENT THAT HE MUST BEGIN REPAYMENT AS HE WAS NO LONGER ENROLLED IN SCHOOL. THE student forwarded the correspondence to the Consulate General of Nigeria seeking the Consulate's endorsement of foreign exchange to pay off the loan. The Consulate General responded that foreign exchange approval would be granted only if the student was a currently enrolled fulltime student. Well, if he was a full-time student, he would not have been in repayment status. Another permanent resident enrolled at Governors State University received a $1,482 NDSL loan and returned to Nigeria within the six-month grace period. The loan is now deliquent, and we have little hope of obtaining repayment. We have contacted Senator Percy's office and obtained a response to these collection problems from the U.S. Department of Education's Office of Student Financial Assistance. The Office recognizes the "obstacles in trying to collect from non-citizen borrowers" and suggested "that after following the due diligence procedures that are in the NDSL regulations, institutions may want to assign loans to the U.S. Government for collection." But this means we must hold these defaulted loans for two years; and, frankly, we are not equipped to obtain repayment. In the meantime these delinquent loans remain in our default rate calculation which hurts not only the institution but the students in our region who need financial assistance to attend our University.

In summary let me reiterate my support for the NDSL program. It is an extremely necessary program, and I hope Governors State University and its students will be entitled to continue in the program. However, without some necessary changes in

PROGRAM REGULATIONS, WE WILL BE PROHIBITED FROM RECEIVING FEDERAL CAPITAL CONTRIBUTIONS BY APPLICATION OF THE PROPOSED ACROSS THE BOARD DEFAULT RATE MINIMUM CRITERIA. SPECIFICALLY, THIS COMMITTEE AND THE DEPARTMENT OF EDUCATION SHOULD CONSIDER:

1) THE EFFECT THAT THE ACROSS THE BOARD DEFAULT RATE WILL HAVE ON URBAN UNIVERSITIES AND THE MINORITY OR COMMUTER POPULATIONS THEY SERVE;
2) CREATING APPEALS PROCESS FOR INSTITUTIONS SERVING A HIGH PERCENTAGE OF MINORITY AND COMMUTER STUDENTS THAT IS BASED UPON SUCCESSFUL IMPLEMENTATION OF A STRONG COLLECTIONS EFFORT AS MEASURED AGAINST DUE DILIGENCE GUIDELINES;
3) EXPANDING THE CONCEPT OF DUE DILIGENCE TO INCLUDE PRE-AWARD GUIDELINES TO BE FOLLOWED THAT WILL INCREASE THE LIKELIHOOD OF LOAN REPAYMENT;
4) ENACTING NEW REGULATIONS THAT EITHER ALLOW AN INSTITUTION TO SHARE INFORMATION WITH CREDIT BUREAUS OR ASSIGN LOANS TO THE FEDERAL GOVERNMENT ONCE IT IS APPARENT THE LOAN IS IN DEFAULT.
5) ENACTING NEW REGULATIONS THAT A) RESTRICT NDSL LOANS TO PERMENANT RESIDENTS, B) ALLOW THE UNIVERSITY TO ASSIGN PERMANENT RESIDENT LOAN REPAYMENTS TO THE FEDERAL GOVERNMENT IMMEDIATELY AFTER THEY BECOME DELINQUENT, NOT TWO YEARS AFTER THE FACT; AND C) IN THE MEANTIME, ALLOW INSTITUTIONS TO EXCLUDE DELINQUENT PERMANENT RESIDENT LOANS FROM THEIR DEFAULT RATE

calculations similar to the manner in which assigned loans are excluded from the calculation.

6) Finally, until these inequities are addressed in the NDSL regulations, I suggest the Committee should recommend postponing the proposed NDSL regulations.

I urgently request your careful consideration of the issues I have raised. Thank you for your time, patience, and good will.

Respectfully Submitted

Leo Goodman-Malamuth

BILL BONER
5th DISTRICT
TENNESSEE

COMMITTEES
PUBLIC WORKS AND
TRANSPORTATION
VETERANS' AFFAIRS
SELECT COMMITTEE
ON AGING

[illegible]
Room 118
Cannon House Office Building
[illegible]-4311

Congreſs of the United States
House of Representatives
Washington, D.C. 20515

August 18, 1982

The Honorable Paul Simon
Chairman
Subcommittee on Postsecondary Education
House Committee on Education and Labor
320 Cannon House Office Building
Washington, D.C. 20515

Dear Paul:

I would very much apppreciate it if you would make the attached remarks of Chancellor Nicks, Tennessee State University in Nashville, a part of the official record. While I believe that student default rates must be reduced, I feel that the mechanism devised by the Department of Education in the final rules published earlier this month are counter-productive. They penalize current and future students for the loan default of past recipients. The rules do not take into account an institution's progress in cutting default rates and provide no incentive for continued collection efforts.

Further, once you have had an opportunity to review the attached letter, I believe a unique case can be made on behalf of Tennessee State University. Their operating report was submitted in December, 1981 and the edit check and corrections report was filed with DOEd in March of this year. Secretary Bell notified TSU of their grant award of $500,000 in National Defense Student Loans by letter in April. Then, just three weeks prior to the beginning of this academic year, the University finds that the grant award will not be honored. No doubt this will create a severe hardship for the institution as well as for the students who had been notified of grant awards.

I appreciate your consideration and any assistance which may be provided in this matter.

Sincerely,

Bill Boner
Member of Congress

BB:vh
Att.

The State University
and Community College System of Tennessee
1161 Murfreesboro Road · Nashville, Tennessee 37217 · (615)741-4821

August 16, 1982

Honorable Paul Simon, Chairman
Subcommittee on Post-Secondary Education
House Education and Labor Committee
227 Cannon House Office Building
Washington, D. C. 20515

Dear Chairman Simon:

Congressman Boner has brought to my attention your plans for scheduling a special hearing on Wednesday, August 18 concerning the withdrawal of National Defense Student Loans for 1982-83 from colleges having default rates of 25% or more.

I would like to bring to your attention a very serious situation at Tennessee State University located in Nashville. Tennessee State, one of the historically Black Colleges and Universities, is a state supported institution under the jurisdiction of the State Board of Regents. Dr. Fred Humphries, President of Tennessee State, was notified in the spring of 1982 by Secretary Bell that Tennessee State would receive $500,000 in National Defense Student Loans and had been operating on that premise notifying eligible students of grant awards. However, only three weeks before the opening of school for the 1982-83 academic year, we learned through the media that the grant award to TSU would not be honored with no prior warning from the U. S. Department of Education. In fact Tennessee State's operating report was submitted to the Department on December 18, 1981, and its Edit Check and Corrections Report was submitted on March 15, 1982. The notification of grant award letter from Secretary Bell was received on April 12, 1982.

You can imagine the confusion surrounding such a decision particularly with the economy being as it is today. I want to assure you that I share the concern of Congress over high default rates and we have been pursuing collections in our state systematically. I do, however, feel that Tennessee State has been treated unfairly in this matter having been given an award letter in April, properly processing applications for the 1982-83 academic year, only to have the entire structure collapse three weeks prior to the opening of school. Any relief that you and your committee can give us would certainly be appreciated.

Sincerely,

R. S. Nicks

Roy S. Nicks
Chancellor

RSN/pm

cc Congressman Boner✓
Dr. Howell Todd
Dr. Fred Humphries

AICS

BY HAND

September 2, 1982

Honorable Paul M. Simon
Chairman
Subcommittee on Postsecondary
Education
320 Cannon HOB
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

As president of the Association of Independent Colleges and Schools (AICS), I respectfully submit for AICS written testimony to be included in the hearing record of August 18, 1982, regarding the proposed final regulations in the NDSL program.

If I can assist you in this or any other matter, please contact me at your convenience.

Sincerely,

Stephen B. Friedheim

Stephen B. Friedheim, CAE
President

kk
Enclosure

STATEMENT

BY

STEPHEN B. FRIEDHEIM, CAE, PRESIDENT

ASSOCIATION OF INDEPENDENT COLLEGES AND SCHOOLS (AICS)

Mr. Chairman and Members of the Subcommittee:

My name is Stephen B. Friedheim, President of the Association of Independent Colleges and Schools (AICS). On behalf of the 550 member institutions of AICS, a national organization, I wish to express our appreciation for the opportunity to submit written testimony to your Subcommittee on the proposed final rules submitted by the Department of Education for review by Congress on the National Direct Student Loan program.

The Association is deeply concerned with the impact of the proposed final rules on not only their member educational institutions, but for the future of the NDSL program. Before proceeding to the specifics of our concerns, I would like to describe for background purposes the area of postsecondary education in which AICS and its member institutions are involved.

AICS

The Association of Independent Colleges and Schools (AICS) was founded in 1912. Its present membership includes some 550 institutions, enrolling approximately 400,000. All the institutions are postsecondary, with approximately 25 percent of the institutions being degree-granting. The programs of education offered in these institutions are predominantly career-oriented, with such areas, for example, as secretarial science, business administration, accounting, and data processing. All AICS institutions are non-public institutions. Predominantly the institutions, by form of governance, are proprietary, although a significant number are organized as tax-exempt institutions. In common with all non-public institutions, they are either entirely or primarily tuition dependent for operating revenues.

Because there is no "typical" AICS institution, as there is no "average" business school, it is perhaps a little more difficult to premise my remarks in the institutional framework. In contrast with the more conventional associations normally associated with the umbrella of the American Council on Education (ACE), such as the land-grant colleges (NASULGC), the junior colleges (AACJC), the great research universities (AAU), the state colleges (AASCU), or the more conventionally organized independent colleges, largely four-year institutions (NAICU), there is a tremendous diversity among AICS institutions. Often well known, for example, is the Katherine Gibbs School which has been known for the quality of its secretarial graduates. With the permission of the Committee, and for the completeness of the record, I would like to file a copy of the current directory of institutions published by the Accrediting Commission of AICS. It might be helpful to the members of the Committee to have available the names of member AICS institutions in each of the respective states or districts.

OVERVIEW OF CONCERNS

I would like to state at the outset that the AICS members do not support high default rates in the NDSL program and that they encourage affirmative steps to decrease the default rates and increase collections in that program. We fully support the original intent of the NDSL legislation, wherein collection of NDSLs would provide a revolving fund for future loans to other needy students. At the same time, we cannot support any legislative or regulatory actions which tend to undermine the original intent of the NDSL program or which do not consistently encourage the collection of NDSLs. It is our position that the proposed final regulations submitted by the Department of Education (ED) to Congress for their 45-day review actually create disincentives for participating institutions to increase their collection activities.

Our concerns with the proposed final rules are both procedural and substantive. If congressional action is not taken to halt the finalization of these proposed final regulations or, at a minimum, defer them for one year for further study, I am concerned that the NDSL program will no longer be a program for needy students. Instead, institutions will act more like traditional financial institutions and try to minimize their risks, thus denying the benefits of the loan program to those students for whom the benefits were first intended.

Those policymakers responsible for legislating and administering the loan programs for needy students must always remember that, while increased collections and lower defaults should always be an objective of the program, they should never expect that the default rates will equal those rates in the traditional, commercial loan markets or even in the Guaranteed Student Loan program. The Congress must, therefore, balance the well-intended need to reduce loan defaults with the concommitant objective of providing low-interest loans to financially-needy students through the NDSL program. I believe that to eliminate the Federal capital contribution (FCC) to many institutions which serve low-income students, tips the balance in the wrong direction and unduly discriminates against those students the NDSL program is to serve.

The current regulations, that is, those which are legally final and have been in effect during fiscal year 1981, properly preserve the requisite balance. They provide an incentive to exercise due diligence in loan collections and to decrease an institution's default rate. Most importantly, they do not cut off the FCC to institutions which have been successful in reducing their default rates. I urge the continuation of these balanced and effective regulations.

PROCEDURAL PROBLEMS

While it is arguable that the publication of the proposed regulations in January 1982 would give adequate time for public comment, submission of final regulations, and 45 days for Congress to review the final regulations, the forwarding of the proposed final regulations in July 1982 makes a folly of the comment period and subverts the Congressional review process. At the risk of telling you something you already know, the Department of Education has transmitted proposed final regulations to you after the start of the fiscal year in which the regulations are to be effective. Prior to reviewing the proposed final regulations, one could assume that the reason for the delay between the original publication of the proposed rules and the submission of the final rules to Congress for review was that there would be substantial changes between the proposed and final rules. The fact that there is very little difference between the two rules makes one wonder why it took so long for them to be finalized.

The Association of Independent Colleges and Schools contends that not only is it confusing to process the appeals under the proposed regulations, as it was done during the spring of this year, but it is also illegal. The integrity of the rulemaking process must be maintained at all cost. To undermine the process is to also undermine the program upon which the regulations are based.

The timing of the proposed final regulations is particularly onerous because it comes so close to the beginning of the new school year. Most institutions who are on the semester or quarter system will have already begun their classes prior to the allocation of the NDSL FCC. This creates student aid packaging problems for the very students who are in greatest need of financial support.

In a broader sense, the timing is also burdensome because it comes at a time when unemployment is at its post-Depression peak. During times of high unemployment, many individuals who would otherwise be employed decide to go back to school in order to obtain new skills to meet the demands of the marketplace. Therefore, the elimination of the FCC to many institutions who provide this skills training will preclude some needy students from receiving the necessary training to reenter the work force.

SUBSTANTIVE PROBLEMS

Although the procedural problems of these proposed final regulations are many, the regulations have great substantive problems also. These proposed final rules ignore improved collections and the lowering of default rates during the past year at many institutions. The "final" regulations actually penalize many institutions who have evidenced a tremendous improvement in their record of collection. To set an arbitrary level of 20 percent as the cut-off between receiving some FCC and no FCC completely ignores those institutions which have reduced their default rate significantly. It is theoretically possible that an institution whose default rate has increased from 10% to 24% will still receive an FCC, while an institution whose default rate went from 60% to 26% during the previous year will receive no FCC.

To encourage instituions to submit their defaulted loans to the Department of Education for collection does not solve the problem, it only shifts the problems to another locale. Many institutions who now have a default rate at 25% or below in actuality have a much higher default rate because the books were cleaned when they transferred their uncollected loans to ED. No matter how successful the Califano approach to loan collection has been, we should not lose sight of the fact that the original NDSL legislation encouraged a revolving fund at the institution which would be used by the institution for providing loans to low-income students.

The proposed final regulations also ignore the fact that there are different types of institutions which serve different clientele. For example, many of the traditionally black institutions and many of the institutions which are members of the AICS have traditionally served large populations of needy students. To remove needed capital from these institutions at a time when unemployment is high and job skills training is one of our national problems, only exacerbates the unemployment problem. Some consideration should be given to those institutions which serve the financially needy student.

IMPACT ON STUDENTS AND INSTITUTIONS

In general, low-income students are less likely to repay their student loans than those from middle-and upper-income families. Therefore, those institutions which have larger numbers of low-income students also tend to have higher default rates. The result of these proposed final regulations would be, in cutting off additional FCC to the institutions, to shift NDSL appropriations from those institutions with large numbers of low-income students to institutions which traditionally have larger numbers of middle and upper-income students. I submit that this is inconsistent with the purposes of the NDSL program. Many of these institutions already lack an adequate resource base from which to operate and to provide education to needy students at a low cost.

The association is extremely concerned that the methods used in the proposed final regulations will have unintended repercussions in the Guaranteed Student Loan program throughout the United States. For example, we have evidence that some lenders are unwilling to make GSLs to students attending institutions with high default rates in the NDSL program. It has also come to our attention that at least one state is considering the establishment of a ten percent default cut-off rate for allowing Guaranteed Student Loans to be made to students who attend that institution. It is amazing to me how an institution, which has no primary responsibility for making or collecting Guaranteed Student Loans, could be held accountable for repayment of those Guaranteed Student Loans and thereby jeopardize the future possibility of other students at that institution receiving GSLs.

CONCLUSION AND RECOMMENDATION

The Association of Independent Colleges and Schools has both procedural and substantive problems with the proposed final regulations that are now under consideration by this Subcommittee. We firmly believe that these regulations create a disincentive for many institutions to continue to reduce their default rates and to increase loan collection of outstanding NDSL. The current regulations have had a fair and demonstrable effect on reducing the default at most institutions throughout the country during the past year. We submit that these regulations ought to be continued for the school year 1982-83 and that, in so doing, the final regulations proposed by ED be vetoed by the Congress.

We also believe that, if the current regulations are not continued, any new regulations ought to recognize those institutions which have had a substantial decrease in the default rate in prior periods. Any new regulations also ought to recognize the number of low-income students attending each institution and the divergent purposes of the many institutions throughout the country.

The Association is willing and eager to work with this Subcommittee and with the Secretary of Education in developing new regulations which will include the above features. We are concerned that the Department of Education may be "jousting at windmills," and that, in so doing, the jousting stick may strike at the heart of the very individuals the NDSL program was intended to assist -- the student.

Respectfully submitted,

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August 2, 1982

Congressman Albert Gore, Jr.
c/o U. S. House of Representatives
Washington, DC 20515

Dear Congressman Gore:

Several days ago Secretary Terrell H. Bell, of the Department of Education, published a final rule that would eliminate some five hundred institutions from eligibility under the National Direct Student Loan program. His reason was high default rates, regardless of the fact that an institution had met the criteria set down by law in the collection of loans. The law states that institutions must demonstrate due diligence in the collection of NDSL loans to remain eligible.

Our particular institution became involved in the NDSL program in 1969/70, and the majority of loans we made in the early 70's were made to minority students without co-signers, and without credit checks which were not required. The Office of Education had no regulations for the collection of these loans, and it wasn't until 1976 that collection regulations were published. Prior to 1976, the Office of Education was reluctant to let any institution turn delinquent loans over to collection agencies or file suit for collection. In many cases, students were moving or changing jobs so often that we were unable to locate a student after he or she had been out of school for any length of time.

Loans made after 1976 have been much easier to collect, and I am sure all institutions are doing a better job in collecting loans made after rules were finally published on collections.

I think it is unjust for an appointed governmental official to ignore the intent of Congress. Secretary Bell is disregarding the demonstration of due diligence by institutions as the law requires. It certainly imposes hardships on many students that had planned to use these loans to attend school and in many cases will be the deciding factor on whether a student from the low and middle income groups will be able to attend college or not.

I urge you to vote to veto this proposed rule before it becomes final. I would also like to hear from you as to your feelings on this proposed rule.

Yours very truly,

C. W. Davidson

C. W. Davidson
Chairman/Chief Exec. Officer

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